

(53)

EXTRACTS

FROM A

LETTER

WRITTEN TO THE

PRESIDENT OF CONGRESS,

BY THE HONORABLE

ARTHUR LEE, Esquire,

In Answer to a Libel published in the Pennsylvania Gazette
of the Fifth of December, 1778,

BY

SILAS DEANE, Esquire.

In which every Charge or Infamation against him in the
Libel, is fully and clearly refuted.

PHILADELPHIA:

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M. DCC. LXXX.

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L E T T E R

F R O M

A R T H U R L E E, Esq.

*To his Excellency the PRESIDENT of the Honour-
able the CONGRESS of the UNITED
STATES of AMERICA.*

PARIS, February 10, 1779.

S I R,

A LETTER under the signature of Silas Deane, and addressed to the citizens of America, has been published with great avidity by our enemies and propagated through all Europe. Of the public effect it is likely to produce, I shall only speak

speak in the words of a foreign Minister here, " that he doubted whether any power in Europe would for the future think itself safe in treating with us." § Indeed it must be obvious, that if one who has been intrusted with a negociation, is at liberty to reveal to all the world, and to misrepresent what has come to his knowledge under that trust; there is an end to all public confidence and safety. I am at a loss to conceive what can be more traiterous to the community than such conduct. Nor is it possible to devise a surer method of disappointing the negociations
in

§ The following expression in Mr. Deane's letter. "I now see, what I have for some time suspected, a design to lead you into a breach of your national faith and honour solemnly pledged," tends so directly to destroy all confidence in our faith among the powers of Europe, that it is not in incredulity itself to believe it was done without design. Lord Mansfield and the court of England are now employing this assertion with all the courts in Europe to prevent them from negotiating with us, and Lord Mansfield himself could not have devised an argument more effectual. Mr. Deane will not deny that when we were settling the treaty here, he had a private conference upon matters unknown to one of your commissioners at least, with a Mr. Paul Wentworth, the corrupt and corrupting tool of Lord Mansfield. I was informed of this some time after, and desired to know of Mr. Deane the subject of this conference; who told me it was only general professions of wishes to accommodate. I own therefore that I cannot help connecting this conference with a declaration so pernicious to our cause and so direct to the purposes of our enemy. But the facts are before you for your own judgment.

in behalf of the states, by rendering the persons of the negociators odious and suspected, than for a man, who is known to have been in high office, thus to publish against them the basest and blackest accusations. It imports not, as to the injurious effect, whether they be true or false. The mischief may happen before it is possible to prove the falsehood of what is alledged. For example, Mr. Deane says, " a Gentleman of character in Paris told him, that his correspondent in England saw a letter written by me, dated the night of signing the treaty, and giving an account of its being signed." Had Mr. Deane named this Gentleman of character or his correspondent, I or any other person could have gone to him to trace and refute the falsehood. But as it stands, I can only say that it is not true, which puts it upon the foot of my denial against his affirmation, and leaves the mind in doubt, but always tainted with the suspicion that there must be something in the accusation, or a man would not hazard his name to it; with this dark covering are many of his accusations clothed, which shews the art and baseness with

B

which

which they are made.† Congress will now permit me to speak to those charges which he has made against me. And first, I do most solemnly declare before God and man, that every one of them is totally and absolutely false. His first charge is, that "by a wanton display of my errand, I gave just cause of distrust to the Court of Madrid," and was restricted to Burgos.

The lines which immediately followed, together with the vouchers sent to Congress, afford the fullest proof not only of the falsehood of this paragraph, but that Mr. Deane, at the time of his publication, knew it was false.

Candid men and friends to their country will dispense with the publication of these proofs at this time, as such publications, betraying secrets of state, may injure the cause of the United States by giving just offence to friendly powers. With regard to "the wanton display of my commission" which Mr. Deane charges me with making, I affirm that nothing can be

† Since this was written, a letter of Mr. Deane's, intercepted and published by the enemy, discovered to Dr. Lee who the Gentleman in Paris was that Mr. Deane alluded to and produced the letters referred to appendix No. 1.

be more contrary to truth. I defy him to produce the least title of evidence of what he asserts, or in contradiction to what I declare, that I did not communicate my mission to any one living, or had the smallest intercourse with any person from Bourdeaux to Burgos. It was impossible to conceal that I was going to Spain, or prevent persons writing so to Nantz and Bourdeaux; but this was all they knew. By the extract of our public letter ‡ it appears that it was the public good which called upon one of us to go to Madrid, and it was certainly that which animated me to travel night and day through every inclemency of weather to accomplish this end. But according to Mr. Deane, the *secret* purpose was to get rid of me, which though I have suspected, I little imagined he would have had the imprudence to declare, and by that means point out the real cause of all the cabals which have been constantly working to calumniate and vilify me since my return from Spain.

As

‡ “ Finding that our residence here together, is nearly as expensive as if we were separate; and having reason to believe that one of us might be useful in Madrid, and another in Holland, and some courts farther northward, we have agreed that Mr. Lee go to Spain, and either Mr. Deane or myself to the Hague. Mr. Lee sets out to-morrow.

As a cover for this, I am represented as proclaiming my hatred and contempt of the French nation, and being suspected by persons in high office from my connection with Lord Shelburne. Situated as I was, if I regarded only my personal safety, it would have been little short of insanity to have made such declarations, whatever might have been my opinion. If Mr. Deane means that I frequently exclaimed against those contractors and jobbers, who, very much under his influence, were doing injustice to the public, he is right; and in no other sense is there a colour of truth in the charge. I had travelled three times before in France from my own inclination; was this like one who hated and despised this nation? If I was suspected for my connection with Lord Shelburne, so long an able and avowed friend to the American cause, how come it that Dr. Franklin, who was known to be intimately connected with Lord Howe, Sir Grey Cooper, Secretary to the treasury, and Mr. Strahan, the King's printer, the most ministerial servants and enemies to America, should have escaped suspicion?

If I was suspected, how came the court and Minister

nister here, to trust me with those of their proceedings which they most wish to be kept secret? The truth is, that I have been apprised often of Mr. Deane, by himself and his agents having endeavoured to excite this suspicion, in order to injure me. And so far did he flatter himself he had succeeded, that it appears from the declarations which many Gentlemen, particularly Mr. Stevenson §, heard Mr. Carmichael, once Mr. Deane's confidant, repeatedly make at Nantz, that he knew the excuse Mr. Deane would make to Congress for his doing the business of the commission without consulting me, would be, that the French Ministry had desired it. Mr. Carmichael added, that he did not doubt this arose from Mr. Deane's suggestions. I have written but two letters to Lord Shelburne since my leaving England, of which I send you copies *. I owe this testimony to the honour of that nobleman, that, notwithstanding our former friendship, he has never attempted, directly nor indirectly, to get a line from me; nor has he had one since the

C

above,

§ See appendix No. 2.

* Appendix No. 3.

above, one of which was written soon after my arrival here, the other to recommend the business of our prisoners. I am next represented as making the tour of Germany, to arrive at Berlin in safety, "where I was unfortunate enough to do nothing but lose my papers, discover the secrets, and expose the measures of my colleagues, so as to enable the British Ministry to counteract the measures taken for your advantage." That my door and desk should be broke open in the midst of the city of Berlin, in open day, was an outrage little to have been expected, and which no human prudence could have prevented. When Mr. Deane imputes this to me as a crime, he shews at once his candour and his forgetfulness, that a similar accident happened to us all in France, when our despatches by Folger were robbed. Is it sure that the enemy received no intelligence from that robbery? Congress will see by the enclosed letter from me to my colleagues §, the real

§ "Two days ago, while I was at dinner, my bureau was broke open, and some papers stolen out, which were in my portefueil. The English Ambassador happened to be in the hotel, where I lodged when I discovered the robbery. Upon being informed

real state of the robbery at Berlin, and the early notice I gave them of that event, to prevent any possible ill consequences. Let him point out the measure or measures for the public good, which it enabled our enemies to counteract. Certain it is, that it did not interrupt that foolish and fatal business at Dunkirk, which was his entirely, as Doctor Franklin always disclaimed it, and which threw Mr. Hodge into the Bastile *. He says I did nothing

I was gone to the Governor, and that the suspicion fell upon one of his servants, he went away in great confusion, and in half an hour the portefeuil, with all the papers, were laid down at the door."

* Mr. Hodge, being bound on a voyage to Europe in 1776, he was employed by the Secret Committee to purchase two well armed swift sailing cutters, fitted to make cruizers on the American coast, and to send them, loaded with stores for the army, as soon as possible. He was to be advised by Mr. Deane, and, if he could *obtain leave*, he was to purchase and fit out a frigate from twenty to forty guns, for cruizing in the European seas. Mr. Deane was consulted; and how was this business executed? Instead of *obtaining leave*, the strongest prohibitions were used by the court; and in defiance of these, as well as in contempt of the instructions given to Mr. Hodge by the Secret Committee, 92,292 livres of the public money were employed in purchasing and fitting out first a lugger, and then a cutter, to make prizes in the European seas. The public money was used, but private persons were made joint owners of the cutter with the public. Messrs. Deane and Cunynghame took a quarter, Mr. Hodge a quarter,

thing at Berlin ; yet, not only proofs of the untruth of this charge, but the clearest proof that Mr. Deane knew it was untrue, when he published on the 5th of December, 1778, is to be found on the files of Congress, and would most certainly have been published, but for reasons similar to those already assigned. The artifice and wickedness of Mr. Deane, is fully manifested in this instance, as well as in that of

quarter, and the public was graciously allowed the half of a vessel purchased with its own money. This vessel being put to cruize in Europe, embroiled our affairs first with the court of France, and then with the court of Spain. She continued cruizing thirty-one months, took thirty prizes, of which seventeen arrived safe in port, though no more than six were consigned to public agents, or applied to public use ; and these were of little value, that the cost of repairing the cutter generally exceeded the value of the prize. When the cutter arrived at Philadelphia, after thirty-one months cruize, though Mr. Deane was in the city, yet he never explained the mystery of this jobbing concern, and the vessel was sold at public auction. For the purchase and fitting this vessel, Mr. Deane ordered the public money from the banker, but has brought no credit to the public for the private shares admitted, or prizes taken. For proof of the whole of this jobbing, disgraceful and reprehensible proceeding, see letters of instruction from the Secret Committee to Mr. Hodge, of May 2d, 1775, and October 3d, 1776 ; Mr. Hodge's letter to Commissioners Franklin, Adams, and Lee, dated July 10th, 1773, with his account ; Mr. Grand, the public banker's account ; letters from the Minister to Messrs. Franklin and Deane, and to Mons. Grand ; Deane's narrative to Congress ; Captain Cunynghame's narrative to Marine Committee. All among the records of Congress.

of Burgos, and clearly justifies the idea of a well informed writer in the Pennsylvania Packet, who signs himself Rowland, when he says on these occasions, "instead of facts, he is prompted to supply their place with the highest wrought execrations upon a man, who knew he was delivering, in both instances, the most downright falsehoods, which no one could prove by producing vouchers, without running into an indiscretion greatly criminal both in regard to Spain and Prussia. Have I not, says that writer, produced enough on other points, to shew that I can command the most authentic papers? Will not a sensible public readily conceive, that the deposition of Spain and Prussia is to be declared by themselves in their own time? I shall only now assert, that Doctor Lee was, in both cases, an able, judicious agent. The time may come, when I may tell what great things Mr. Lee had done *within the compass of Mr. Deane's knowledge*, at the time of his publication." [*Pennsylvania Packet, August 31, 1779.*]

I have already had the honour of sending Congress a refutation of this charge, as of many others which they had in their possession at the time it was made.

D

My

My correspondence with Doctor Berkenhout is his next charge ; he is, however, obliged to confess I communicated a part of it to my colleagues. How he came to know there was more than was communicated, when he knew nothing about it but by that communication, is a mystery. But his veracity has been, and will be, sufficiently proved. He forgets to add, that I also laid it before the French Ministry, and that my answer was made by their unanimous advice. Doctor Berkenhout's reply, and his declining to proceed any farther, was not owing to the news of General Howe's success, as will appear by his letter †. It was, that the English Ministry understood there was a difference between Doctor Franklin and me, which rendered it useless to treat with us. This report had been industriously propagated both here and in London, by Mr. Deane's cabal to injure me. Mr. Deane asserts, that about "the time of the arrival of the news of General Burgoyne's surrender, (the 4th of December, 1777) my Secretary went to and from London, charged with affairs which were secret to your other Commissioners."

† An authentic copy has been sent to Congress.

missioners." Congress will be astonished to hear that I had no Secretary at that time, nor at any time before it, except Mr. Sayre, who left me at Berlin, and has not been in Paris since.

* Let Mr. Deane name, if he can, who that Secretary or person was. The first Secretary I ever had here, was Major Thornton, who entered upon that office late in January, 1778. At the time Mr. Deane mentions, Major Thornton was chosen by my colleagues, I never having seen or heard of him before, to carry our letter to Lord North about the prisoners, and to visit and relieve them. This will be seen by Doctor Franklin's letter, introducing him to Sir Grey Cooper, and announcing his Business *. Among other letters of information which he wrote us from London, and which were long concealed from me, one contains the following remarkable

* Receiving frequent accounts, by American prisoners who have escaped from your jails, of the miserable situation and hard treatment of their countrymen at Portsmouth and Plymouth, we have prevailed with a Gentleman, Major Thornton, (to us very much a stranger, but who appears a man of humanity) to visit the prisoners, and give from us some relief to those unfortunate men. Passy, December 11, 1777. Signed, B. Franklin. An authentic copy was sent to Congress.

markable piece of-intelligence : " Lord North told Mr. Hartley last Saturday, the 3d of January, 1778, that he knew of several persons who had come to London from Messrs. Franklin, Deane and Lee, and that Doctor Bancroft had been in London, and he was informed had been sent by those Gentlemen from Paris, on stock jobbing business." The fact is, that Dr. Bancroft, then acting as Secretary to Mr. Deane, and living in the house with the other commissioners at Passy, went off express for London the very day the news of the Saratoga surrender arrived. Mr. Jonathan Loring Austin, who brought the dispatches, knows this, as does every American who was then in Paris or in London §. The infamy of this transaction was visited equally upon me.

The whole of this forgery is calculated to support his insinuation that I held a correspondence with the enemy, and betrayed state secrets ; and to confirm this, he refers to a declaration of Charles Fox that the treaty was signed. For this purpose too he has converted Charles Fox, from a family
foe,

§ See appendix, letter Z, at the end of the appendix.

foe, as every one knows he is, into the friend of Lord Shelburne. It is impossible Mr. Deane should be ignorant of what was the common talk and surprise of the time, that Mr. Fox expressly declared, that his information came from Dr. Franklin. The following are his words, as detailed at large in the *Courier of Europe*, Tuesday, February 24, 1778. *House of Commons*, Tuesday, February 17. "I have seen a letter from Doctor Franklin, in which that Commissioner of America says expressly to his correspondent in London, It is ten days since the Deputies of Congress signed with the Minister of France a treaty of commerce, in which all the formalities that are practised between contracting nations, have been solemnly observed."

To fix, therefore, this imputation upon me, of having betrayed to the enemy an important matter, that was agreed to be kept a profound secret, he has recourse to a gross falsehood, and a most palpable misrepresentation of a notorious fact. But what will be the opinion of him, when, from the following declaration of Captain Livingston, which I have under his hand, a direct and irresistible con-

clusion arises, that Mr. Deane himself betrayed this secret, not *after*, but *before* the treaty was signed, which was ten times worse? Paris, April 11, 1778. I do certify, that I was shewn a letter in London, dated the 27th of January last, "which I was told was written by Doctor Bancroft to Mr. Wharton, informing him that he might depend upon it, he had it from the very best authority, that the treaty with the court of France was to be signed the 5th or 6th of February, and desiring him to make his speculations accordingly, in the above words, or words to that effect. I do also certify, that I have seen Doctor Bancroft's hand writing on other occasions, and that I believe the above mentioned letter to have been written by him.

(Signed) M. LIVINGSTON."

Witness, GEO. DIGGES.

Captain Livingston is a Gentleman of unimpeached character, was some time a Lieutenant on board the Boston frigate, which he quitted with a recommendation from the Commissioners to Congress. He now commands the Governor Livingston, and I hope will reach America, to confirm personally

personally what he has given under his hand. Doctor Bancroft lived with Mr. Deane as his Secretary; and every one will judge who his *best authority* was. And since Mr. Deane chooses to deal in circumstantial evidence, there is one circumstance very strong to point this to him, which is, that from a mistake of our banker, in having charged to the public account what belongs to the particular one of Mr. Deane, it appears that on the 17th of February, 1778, Mr. Deane remitted to this Mr. Wharton, in London, from Paris, 19520:14. It is proper to observe, that this gaming was, by giving so much down to receive a certain sum, on the happening of a stipulated event in a given time. This made it necessary to remit. Mr. Deane may perhaps explain this away; but I beg it may be by well authenticated facts, not by mere assertions, as I think some doubts have been thrown on his veracity.

When Mr. Deane asserts, "that frequent bickerings and disputes happened between Mr. Lee and him, for his attention to the public service," he commits a little mistake. It was, because he was
sacrificing

sacrificing the public to private views, and usurping the sole management of that business, in which I was equally authorised and equally interested; and because the public money was expended without any specific accounts or vouchers, and I had reason to believe, was very improperly spent. I have Doctor Franklin's testimony, that he did the business without me, as he says in his letter to his nephew, "Mr. Deane generally consults with *me*, (not with his colleagues) and has *my* approbation." Indeed it may well be conceived, that notwithstanding the modesty and unassuming diffidence so conspicuous in Mr. Deane's character; yet, as he conceived himself *saddled* with me, the moment I was appointed, he would find out some means of relieving himself from the burden. The Madrid scheme, it seems, I maliciously disappointed, by proclaiming my commission along the road. He therefore cut the matter short, by setting the power of Congress at defiance, and usurping that commission with which they had jointly entrusted me. I beg the particular attention of Congress to one observation, the truth of which the contracts, appointments and banker's accounts will

will shew, that, though the public money was equally in my disposal, I never disposed of fifty pounds without their concurrence, nor did one livre go through the hands of any relation or connection of mine; that no contract nor place was ever given to one of my recommendation. - The graciousness and the advantages of these things, my colleagues, their friends and relations, enjoyed exclusively and entirely. One would have imagined this might have kept them in good humour with me; but unhappily it did not. I come now to one of the weakest confessions of criminality, on the part of Mr. Deane, that ever the blindness of passion and rage of accusation produced. He informs the public, that he received, the 4th day of March, the resolution of Congress, which he quotes at large, recalling him and appointing another Commissioner in his place. Yet with his recal and annihilation as one of your Commissioners in his possession, he imposed himself upon his colleagues, upon the Court of France, and upon all Europe, as still a representative of the United States. He was publicly presented, on the 20th of March, to the King and Court of Versailles,

as still bearing that character ; and this was announced to all Europe. He disposed of the public money to others, and took largely of it to himself, as will appear by the following articles in the banker's account.

| | | | |
|-----------|--------------------------------------------|---|-------|
| March 15. | Assignation de M. | } | 250 |
| | Silas Deane a J. Barnet, | | |
| March 17. | Autre du même à B. Nicholson, | | 240 |
| | ditto 25 & 27. Assignation de M. S. Deane, | } | 1400 |
| | à H. Johnson and J. All, | | |
| March 17. | Compté de M. Silas Deane sur reçu, | | 4800 |
| | ditto 24. ditto à ditto ditto | | 2400 |
| | ditto 30. ditto de ditto ditto | | 26715 |
| | ditto Payé à ditto ditto | | 4800 |

Thus Mr. Deane, no longer a Commissioner, takes out of the public treasury entrusted to your Commissioners only, in the space of thirteen days, 38715 livres, or 1700 pounds sterling, to his own use. It may be imagined this was to pay the necessary expences he had incurred here. But I appeal to the banker's accounts, to the Hon. Mr. J. Adams, and young Mr. Franklin, whether his house-rent, his furniture, his carriage, and even the wages of his servants,

vants, have not been paid since out of the public money. Neither can he pretend it was for the expences of his voyage, since that was defrayed by his Most Christian Majesty. That he concealed his recal from his colleagues, will appear from the following letter of Dr. Franklin. As I had heard a report of Mr. Deane's recal, and Mr. Adams's appointment, I thought it more delicate to enquire about the fact from Dr. Franklin than from Mr. Deane ; and therefore wrote to the former to know whether there was any intelligence received at Passy of the recal of one of the Commissioners. To this I received the following answer.

Dear Sir, *PASSY, March 13, 1778.*

"I HAVE been told that some passengers landed at Orient, from an American ship, report, that Mr. Adams is coming out to replace Mr. Deane ; but I have received no advice of that kind from Congress, and suppose that, if true, he will bring their orders with him. I have the honour to be, &c.

(Signed)

B. FRANKLIN."

"Dr. Berkenhout," says Mr. Deane, "hath since said, that he had letters to the Hon. Richard Henry Lee,

Lee, Esquire, from the Hon. Arthur Lee, Esq, joint Commissioner of the United States at the Court of Versailles, and sole Commissioner of those States at the Court of Madrid." Before whom did Dr. Berkenhout say this? Was it to General Maxwell, or to the Council which examined and released him? Did Providence reveal this also to Mr. Deane? Was it revealed before or after the Doctor's departure? Wherefore was it that Mr. Deane, who knew of his being in Philadelphia, who had, as he pretends, suspicions of my correspondence with him, and of my designs against the independency of my country, in favour of the English, did not give information against the Doctor when in custody, and have him examined as to this particular and important point? What was it sealed his lips 'till opening them could be of no use, but that of aspersing those he hated, and had infinite reason to fear? Particulars are not for Mr. Deane's purpose, they would endanger his *stubborn and undeniable facts*. General slander, vague and dark accusations, are at once his dart and his defence. His malice gives a certain force to his accusations, and people are apt to mistake, at first,

first, the venom of the shaft for the vigour of the bow.

When slander is his object, no name escapes him. When evidence is required, his delicacy about names is invincible. I not only never wrote a line by Dr. Berkenhout to my brother, or any other person in America, but neither he nor Mr. Temple ever apprised me of their intention of going. I was informed of it by others, just about the time of their sailing, and had some correspondence on the subject, of which I send copies. As to my being at once joint Commissioner at the Court of Versailles, and sole Commissioner at the Court of Madrid," it is a wilful and shameless perversion of truth, for as shameful a purpose—that of deceiving the public and calumniating their absent servant. I have seen Mr. Deane read my commission more than once. He knew, that when I became Commissioner at the Court of Madrid, I ceased to be such at the Court of Versailles: Nay, that the moment I quitted Paris to enter upon the commission at Madrid, my powers as Commissioner here ceased and were no more. The words are, "Provided al-

ways that the said Arthur Lee shall continue to be possessed of all the power heretofore given him as a Commissioner at the Court of France from these States, so long as he shall remain in and be present at the said Court." Thus the existence of the one was incompatible with that of the other commission, and they could not possibly take place in me at the same time. Thus, too, Congress had a person ready to embrace the first favourable moment of negotiating with Spain, without any additional expence, which must necessarily have been double, had they appointed another person. Yet this wise and æconomical measure of Congress excited infinitely Mr. Dean's spleen; because either in his misconception or misrepresentation, it shewed an extraordinary confidence in the man he hated, and whose ruin he meditated.—*Hinc spargere vocis*

Inculgum ambiguas, et quærere conscius arma.

But, admitting two commissions had been actually confided in me at once, how came this to give such an alarm to Mr. Deane's virtue, when it was not shocked in the least at having an hundred committed to the three; which, according to their plan, were

were soon appropriated to my two colleagues, and were likely to vest in Mr. Deane alone? I was despatched to Madrid. Dr. Franklin or Mr. Deane was to go to Holland. Suppose it had been the former, then Mr. Deane, whose acquaintance with Europe, its languages, Courts and politics, was of two whole months standing, and who had travelled quite from Bordeaux to Paris, might have had at once the negotiations to manage with the Courts of Versailles, Vienna, Prussia, Portugal, Sardinia, Naples, Tuscany, Russia, Sweden, Denmark, Poland, the Swiss Cantons, all the Electors and sovereign Princes of the Empire, those of Italy, the Grand Seignior, the Emperor of Morocco and the Barbary States. Yet I do not remember that the modesty and diffidence of Mr. Deane expressed the least apprehension at the probability of so much power devolving upon him alone. His mind seems to have been entirely employed in providing against the possibility of so unequal a weight falling upon my shoulders. We are not to search too deep for the motive of so obliging an act. Mr. Deane's piece was published on the 5th of December. On the
24th

24th of September preceding, Dr. Franklin was chosen Minister Plenipotentiary here, and consequently I was no more a Commissioner at the Court of Versailles. If it were possible to conceive that Mr. Deane, though residing in Philadelphia, and attentive to the proceedings of Congress, could be ignorant of this, his own advices to France announcing it, would prove, that when he published to the people, on the 5th of December, "that I was joint Commissioner at the Court of Versailles, and sole Commissioner at the Court of Madrid," he asserted that which he knew to be untrue. And this with the worst and basest of all purposes—the imposing upon the public, to induce them to censure Congress and myself unjustly.

Mr. Deane informs the people, that, "unfortunately for them, I gave universal disgust to the nation whose assistance we solicited." He had taken so entirely the business of the commission into his own hands, that not a millionth part of the nation knew that I was a Commissioner, or even that I existed. Of all the letters addressed from different parts of the kingdom, there was not one in a hundred

hundred which bore my name. The following passage in a letter from the Mess. Delaps, of Bordeaux, will shew the fact and the reason of it.

JANUARY 3, 1778.

"WE wrote several letters addressed to your direction, to which we received answers only from Mess. Franklin and Deane, which gave us room to imagine you were absent; in consequence of which we replied only to them Gentlemen." Neither these letters nor answers in general were communicated to me. Possibly Mr. Deane may have poetically put his friend Mr. Beaumarchais for the French nation, as I have certainly given him disgust, by opposing a demand for £200,000 sterling against my country, the justice of which I have very good reason to doubt.

There could not be a thing more notorious, than that I associated with, and cultivated the French people ten times more than Mr. Deane. It is true, I did not attempt to have my name celebrated, as all-powerful and all-bounteous, in every coffeehouse in Paris, by arrogating sovereign power, giving commissions and recommendatory letters to

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all

all persons who would attend at my levee and flatter my greatness. I considered such conduct as criminal, and never concurred in it. In my judgment it was an usurpation of the sovereign power which sent us, and exercised without the least distinction or discernment. It is in vain to say, the Court was desirous those Officers might be sent, and that commendatory letters were not conclusive upon Congress. I have had it from the Minister himself, that he disapproved of it. Those who gave the commendatory letters, knew that the persons receiving them, considered them as commissions; and when they were disappointed, they deemed and complained of it as an act of the highest injustice.

Congress know ~~how~~ much money and disquiet these ill judged and presumptuous proceedings have cost them and the public. As soon as Mr. Deane informed me of his arrival and business, I came to Paris at the hazard of my life, to consult with him, and communicate to him whatever was in my power, for his information. Without derogating from the transcendant abilities of which this Gentleman thinks himself possessed, it might have been supposed,

supposed, that one who had been so long in Europe, engaged and active from the beginning in this question, repeatedly employed, and actually in equal trust with himself, might have given some useful advice. But Mr. Deane neither ever communicated or consulted with me; and when I offered my opinion, he received it with such captious rudeness and indecency, as soon satisfied me of the inutility of again repeating it. I hope I shall be pardoned for begging the attention of Congress, while I also answer the accusation of Mr. Deane against my brother, who, being absent in Germany, cannot defend himself by this opportunity. I have in my possession proofs of the untruth of every charge which he has made. Mr. Deane says, that after informing Mr. William Lee of his appointment as Commercial Agent, "he heard nothing from him 'till the month of June, when he arrived in Paris." My brother wrote to me immediately, that he would come over as soon as he could settle his affairs; of which I informed both my colleagues. He came when I was in Germany, and remained here by the express advice of Dr. Franklin and Mr. Deane, he
having

having no commission to act, and they refusing to give him any countenance, till Mr. Ross wrote in the following words, from Nantz, to testify that he was authorised, and to press his coming down.

NANTZ, *July 22, 1777.*

“ PERMIT me now to inform you, that Mr. Morris is possessed of the instructions to Mr. Lee from Committee of Congress, on his being appointed Commercial Agent here. Since your last letter came to my hand, I suspected *thus* to be the case from some circumstances, and by accident last evening learned it to be so. These instructions are contained in a letter addressed to Mr. Lee and Mr. Morris, as joint Agents, which is similar and of equal force with the separate powers on which Mr. Morris has acted hitherto. I take therefore the liberty to recommend Mr. Lee's repairing hither immediately, to assume the management.

(Signed)

JOHN ROSS.”

This letter was addressed to Mr. Deane. Their consent could now no longer with any decency be withheld; and my brother set out for Nantz, with a letter from us, recommending harmony between

tween the Commercial Agents in conducting the public business. Unfortunately for my brother's peace, that harmony appeared to have taken place, as we soon received a joint letter from them, stating that the powers given to Mr. Williams by Mr. Deane, for his name only appeared to them, though it appeared afterwards that Dr. Franklin had confirmed them, were incompatible with their agency, and therefore they requested those powers might be recalled. An answer was prepared to this letter, and shewn to me. It expressed a willingness to recall those powers, and to vest them in Mr. Lee alone, with very strong expressions against Mr. Morris. I objected what was obvious, that this would destroy the harmony recommended, and without which the public business could not go on. That the right answer seemed to me plain and simple, which was, to recall the powers complained of, without saying any thing for or against either of the Gentlemen, which it was manifest would be productive of bad consequences. My opinion was not approved.* Neither that nor any other answer was ever sent to this or any of the letters written to us

by the Agents jointly or separately. My brother returned to Paris in October, and then received his commission. On the 13th the Commissioners met by his desire (and Mr. Izard attended) when he gave them an account of the situation, of the Commercial affairs at Nantz, and stated that, in consequence of the powers given to Mr. Williams a quarrel had been produced, which made it impossible to conduct the public business with effect, till those were recalled; and the Commissioners gave their support openly to the Agents appointed by the Committee. He said people in general could not determine who was Commercial Agent, and others took advantage of their mutual pretensions, and endeavoured to play one against the other. There was a prize or prizes laying striped, plundered and rotting; no one choosing to become purchaser, under an uncertainty of who had the true authority to sell. He therefore begged to know whether they would recal their order to Mr. Williams, and support him in the execution of his office. The two eldest Commissioners professed a willingness to recal the order * but positively

* The sincerity of this profession will appear from the following

tively refused to give him any support. Thus the meeting ended ineffectually, the order being not only not recalled, but soon after confirmed and extended. Congress will therefore judge with what propriety and truth Mr. Lee was accused of having inclined to regulate these affairs when loudly called upon. The addition that he declined it, lest his property in England should be effected, is a surmise and a calumny entirely worthy of Mr. Deane. A letter had long before that been written from Paris to London, and published in the newspapers, giving Mr. Lee's name at large, with information of his being in Paris, and having accepted of the Commercial Agency. His wife, children and fortune were in the power of the enemy, to whom this information was given. I am not the only person who had it from a Gentleman much in their secrets, that this letter was written by persons under Mr. Deane's roof, and known to be under his direction.

Mr.

following passage in Mr. Williams's letter addressed to the Hon. Silas Deane: "Nantz, Oct. 21, 1777. I have received your favour of the 18th instant, and observe that matters relative to the ships of war and prizes are to remain *as they were*, &c." This letter also shews the private traffick they were carrying on respecting the prize brig.

Mr. Deane proceeds " He returned to Paris, and there received his appointments of Commissioner to the Courts of Vienna and Berlin. He continued nevertheless inactive at Paris, until the month of December; carefully concealing his appointment, which indeed might have militated against his office of Alderman of London; which he did then, and probably does still retain. When the news of General Burgoyne's defeat and surrender arrived it produced a revolution in the minds of many, and among others inspired your Commercial Agent and political Commissioner, the Hon. William Lee, Esq; with some degree of activity in your favour." This infamous aspersion comes from the man who knew that my brother had come from London, had openly taken upon him the agency, went down to Nantz, where every one saw him act as Agent, had written a number of letters as such to the Commissioners, and of whose acceptance of the place, public notice had long been given in the English papers! His appointments as Commissioner were received by us, and given to him by us, as appears by our common letter to the committee. From whom
then

did he *carefully* conceal them? Does this man mean that he did not proclaim them to the world? He charges me with not concealing mine, and my brother with concealing his. Charges equally false and equally foolish. On the 4th of December, Mr. Austin arrived with the news of Burgoyne's defeat and surrender, and the battle of Germantown. The French Court, upon this, approaching us to treat; it was thought proper for him to wait the effect of the conclusion of the treaty, and the recognition of our independence which we supposed would follow it. When these took place he departed for Frankfort having first consulted both the Commissioners here and the Minister on which Court he should apply to first. But Hanover and its connexions having taken part against the Empress, Vienna seemed to promise the fairest opening. The rest he will explain himself. It suffices that I have opened enough to shew the malice and untruth of Mr. Deane's charges and insinuations; or as he terms them his "stuborn and undeniable facts." As to the Aldermanship, my brother wrote soon after his first arrival here to his most Patriotic Common Councilmen, that he would send them

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his resignation whenever they found it convenient to make a new election as they liked. It appears by the English papers that it was not till last St. Thomas's day, that they requested his resignation, and this in consequence of a second offer from him at Frankfort.

"He appointed, says Mr. Deane, sundry Commercial Agents, dismissed one who did the business for two *per cent*, and shares five **per cent*, with the others for superintending at Vienna, the business done on your account a thousand miles off from his place of residence." This accuser is one who applied to the Court here, to give Mr William Lee, as surviving Commercial Agent, an order to receive the papers of the deceased Mr. Thomas Morris. Of this our joint letter of January informed Congress. In Mr. Deane's estimation therefore he continued competent to, and bound to act in that office, notwithstanding his new appointment. To discharge that trust till a new Agent should be nominated, my brother appointed three of the most unexceptionable

* Mr. William Lee has transmitted an affidavit in due form, that this is false, and also certificates to Congress, of its utter falsehood.

ble men in France, Messieurs Scheveighauser, Bonfield, and Limosin. All this he wrote to the Committee, desiring a new appointment (in place of Mr. Lee) and we both pressed the same to our private friends, as essentially necessary for the public good. It is now a year since Congress resolved, that the Commissioners here should appoint an agent or two to supply his place. We answered Congress that as they would probably appoint Consuls agreeably to the treaty, we should inform Congress if we found it necessary, to make any change in the Agents Mr. William Lee had appointed. That he dismissed Mr. Williams is directly contrary to truth. He neither appointed nor dismissed him. Dr. Franklin and Mr. Deane appointed him. Dr. Franklin, Mr. Adams, and myself dismissed him, as will appear by the following letter signed by the three Commissioners B. Franklin, A. Lee, and J. Adams addressed to Mr. Jonathan Williams, dated Passy, May 26, 1778. " We think it prudent and necessary for the public service to *revoke*, and we do hereby *revoke*, all powers and authorities heretofore granted by the Commissioners Plenipotentiary, or
any

any of them. We have further to repeat our earnest request, that you would lay your accounts before us as soon as possible." When the balance demanded on these accounts was directed to be paid, the order on the banker contained the following censure on their author." We agree that the bills drawn on you by Mr. Williams shall be charged to the public account of the United States. This consent however is not to be considered as any approbation of his accounts, nor to have any influence at all in the final settlement of them.

Passy, July 10, 1778

B. FRANKLIN.

(Signed)

J. ADAMS.

Doctor Franklin and Mr. Deane by their sole authority took the sale of prizes from the commercial agent and gave it to Mr. Williams. It has been discovered by a letter from him to Mr. Deane, which the latter forgot to place in safety among his other papers † that the commissioner and agent were trafficking in these prizes for their private trade, the letter contains the following words ;

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† Having placed my papers and yours in safety, I left Paris.—
[Deane's address, December 5.]

" I have been on board the prize brig, Mr. Ross tells me he has written to you on the subject, and the matter rests, whether according to his letter you will *undertake* or not, *if we take her on private account* she must be paid but 13,000 livres." The public were sure to receive justice when the Agent was at once the seller and the purchaser, and the Commissioner, who should controul him, was a partner in the purchase. It was this kind of *attention* to the public *service* that gave rise, as Mr. Deane says to " frequent bickerings and disputes between Mr. Lee and his colleagues." ‡ Authenticated copies of all the papers referred to in these answers, have been sent to Congress. The public may therefore rely upon their authenticity. They are sufficient to shew the true character of Mr. Deane; and with what truth he asserts that his conduct is not founded on enmity to individuals, whom he has falsely accused, *not out of any desire of profiting himself and his friends* by removing disagreeable checks to his avarice and ambition, but purely out of love and affection for his countrymen; dis-

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‡ Deane's address, December 5, 1778.

turbing them with false alarms, inspiring them with pernicious jealousies, planting discord and division, where confidence and unanimity are so necessary, were solely to serve the public not to make them the instruments of his envy, hatred, and malice. Iago professed as much, when he practised the same, and with equal purity of heart—"I hope you will consider what is spoke comes from my love" (Iago to Othello) I send proofs from Mr. Williams's own letter and accounts, that he has done the very thing with regard to sharing the five per cent. with which Mr. Deane charges my brother. §

I also enclose evidence from the letter of Mr. Williams and Mr. Morris, that it was the latter who made this agreement with him, without the knowledge or participation of my brother; though they knew he was joint Commercial Agent, and was
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§ Extract of a letter from Mr. Williams to the Commissioners, dated February 28, 1778. I must beg leave to remind you of the agreement I made with the late Mr. Morris, by which "I was to account with him for all sales and purchases that I should make in consequence of his authority, charging the *commission of five per cent.* allowed by the Committee of Congress between him and myself." From Jonathan Williams's account of disbursements—Independence, Captain Young, commission five per cent. £.228 : 9 : 11; Rauger, Captain Jones, commission five per cent. £.3738. See appendix No. 4 and 5.

at Paris; where it was the intention of the committee, that the Agent should reside; and where Mr. Deane must acknowledge he stationed himself in that department. It was by such little tricks as these that all order and decency were banished from the conduct of our Commercial affairs. Either my brother must have acquiesced in this agreement, whether he approved of it or not, or he must have quarreled with his colleagues; either of which, those who contrived it, knew would equally answer their purpose. When called into the public service, my brother quitted a situation in London, at which few strangers ever arrive. He came here in expectation of doing service, instead of which he was, treated with every kind of indignity by Mr. Deane, and obliged to acquiesce under the usurpation of his place and powers, by one, who a year before had been clerk to a sugar baker in that City, where he was one of the chief magistrates and Merchants. As to the commissions which Mr. William Lee is said to have shared, he neither stipulated for, nor shared any with those he appointed; and I am most sure that he made more by his business in one week in London,

London, than his commissions on the public business have amounted to in ten months. But how utterly void of every sense of shame and decency must Mr. Deane be, who inveighs so violently against my brother for bearing at once a political and Commercial character when he tells us in the same breath that he himself was the "political and Commercial Agent of America in Europe." He resided at Paris, had five per cent, commission, and his sphere extended not a thousand only, but three times a thousand miles. He whose extent of travelling had been bounded by Philadelphia, and whose former life gave him as much opportunity of knowing the merchants and politicks, the Commercial and political state of Europe, as the ship that brought him. Besides that his total unacquaintance with the languages of Europe, rendered the acquisition of that knowledge, for some time at least, utterly impracticable. I have sent congress copies of Mr. Williams's accounts, from which it will appear, that instead of having done your business for two per cent. he has received two per cent for *not doing* your business and a Mr. Pettier du Doyer one per cent. besides gratuities

gratuities for *doing it*. To any other man but Mr. Deane it would be felt worse than death, that among the multitude of his charges and assertions, there is not one, but what is refutable by written evidence. After having thus exposed the malice and untruth of Mr. Deane's accusations; the honour of every man in Congress must feel for my situation, when I assure them, that since my return from Spain, this assassination of my character which is now extended to America, has been practised without intermission by a cabal of Mr. Deane's, both in Paris and London. Their imputations were so artfully and industriously urged, that my best friends were tainted by them for some time. But this is not a subject which I shall now enter into. In every accusation the character of the accuser ought to be considered. Is Mr. Deane's character fair? Is he an unaccused man, and has he answered by any thing but his own assertions the accusation against him? Do not his own confessions render him criminal, and are there not upon the records of Congress, or of the committee, evidence from himself of his illegal conduct, and of the malice and falsehood of many of his accusations

against my brother and me? " Mr. Lee says this accuser, was dragged into the treaty with the utmost reluctance." The authenticated extracts which I have the honour of sending from my private and public letters from the first moment of the treaty being taken up by this court till after its conclusion, will shew that this charge too, is like all others, destitute of every colour of truth. No man, it will appear, could be more anxious for its conclusion, nor any one more rejoiced, or more sanguine in his expectations from it, than myself. Every letter will shew how strongly my sentiments were against England, and in favour of France. It was my hope and expectation, as I wrote Mr. S. Adams on the 1st of March, " that the British Commissioners would return as they came, unless they had power and did acknowledge clearly and fully, the sovereignty and independence of America, as an indispensable preliminary " This hope and this expectation were fully gratified by the proceedings of Congress. I also gave immediate information of the intention the British Ministry discovered of endeavouring to succeed by bribery. Congress knoweth that Mr. Deane gave the

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the same warning for he was certainly also informed of it. The variety of accusations which it hath pleased Mr. Deane to make against my brother and me has necessarily drawn this answer to a tedious length. Congress I am sure will pardon me, when I entered the public service, it was with a resolution of serving at the hazard of every thing but of my honour and reputation. Yet I feel it as a real misfortune that I am compelled to call so much of your attention to what may be deemed the concerns of individuals. But in truth the public is highly interested in the question. There is one observation in Mr. Deane's conduct which I cannot omit. He acknowledges his having been possessed both of his suspicions, and what he grounds them upon, when he left France. He would induce us to believe, that he considered his recall not to be for any misdemeanors, but to give Congress an account of their affairs in Europe. For this purpose he had two audiences of Congress. Now I appeal to every man living, whether if he had the least evidence to support his suspicion, or had any sense of the duty he owed to his country, his first word ought not to have

have been—Gentlemen, I have a matter to communicate of the last importance to these United States ; I beg a secret committee may be immediately appointed, to whom I may make it known, that upon their report you may take such measures as you may think the welfare of the public requires. But instead of this conduct which a man really consulting the public good would have pursued, Mr. Deane first made a faction in Congress by forming partnerships in trade with some of its members, and by a variety of agents and secret insinuations ; he poisoned the minds of people by a number of accusations conceived in dark and general terms, and insinuating to all the world that the measures of Congress had been governed by intrigue and cabal,” and that, “ there is a design to lead us into a breach of our national faith solemnly pledged.” These insinuations tend to raise suspicions in the minds of foreign powers, to make them doubt the security of any engagement with us ; and consequently to mar all our negotiations. Could there be possibly any thing more highly and immediately interesting to the common weal, than the treachery of one so highly trusted as I was, and possessed

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ed of such a knowledge of your affairs, as to have it in my power to do infinite injury? If he really believed what he pretends, could he have avoided making this communication? Does he not know that if what he mentions could be proved, and would fix treason upon me, that his concealment of it so long is misprision of treason? From the 19th of August to the 5th of December he left me to do all the mischief to the public, which he could not but expect I should do if I were guilty of what he accuses me. At length he publishes it to the world, and of consequence to me. It was therefore a warning to me, if guilty, to go over to the enemy, with every communication that could be injurious to your interests. The extremes of folly and wickedness combined could not have dictated a conduct so opposite to what he ought to have pursued. The truth is that Mr. Deane expected from the effect of a French fleet of which he was to claim the sole merit; the brilliancy of a diamond snuff box, and complimentary letters, that he should have nothing to do but make his triumphant entry into Philadelphia, and return

return immediately to Paris. I do not speak from conjecture. It was the constant talk of his friends here ; and is matter of common notoriety ; deceived in his expectation and unable to answer for his conduct, he is searching an asylum in popular prejudices. In the moment that he censures me for having made a tour to reach Berlin in safety, he discovers his having waited a month with the order of Congress " to make all possible despatch," and then made a six week's tour of France and the Mediterranean, to get to sea and be escorted in safety by a French fleet ; but not meaning to give any account of his conduct, he placed his papers and yours in safety ; the existing Commissioners having no right to see the latter, and no doubt in expectation of a much safer opportunity of conveying them, than under the convoy of 12 ships of the line. I have only to remark, that if the crimes of which Mr. Deane is clearly guilty, and the conduct which he himself confesses, are permitted to pass unpunished there is an end to all expectation of public justice. The impunity of the past will encourage greater crimes against

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gainst the public; and all order, virtue, dignity,
and decency will be constantly transgressed.

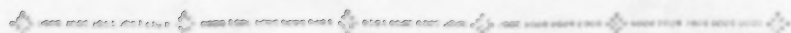
I have the honour to be,

With the greatest respect,

Your Excellency's most obedient

Humble servant,

ARTHUR LEE.



A P P E N D I X.

No. I.

*Copy of a letter from the Hon. Arthur Lee, to Mr.
Samuel Petrie, in Paris.*

SIR,

Paris, *April 8, 1779.*

IT appears by a letter lately published in the
London papers, that Mr. Silas Deane, has desired
his correspondent in Paris to obtain from you "a
copy of the letter which you received in March last
from London, which gave the information of the
signing of the treaty." It is probable you are not un-
acquainted with Mr. Deane's having publicly accu-
sed me of being the author of that information so
given

given of the treaty, and this, as he says, upon the authority of a respectable person at Paris, who had recieved such a letter as he writes for from you. I therefore beg you will do me the justice to inform me explicitly whether you gave Mr Deane the information upon which he founds his accusation, and who the person is in London, who pretends to have seen a letter written by me giving inteligence of the signing of a treaty with France, and dated the night it was signed. I am sorry to trouble you on such a subject, but you must be sensible, Sir, how necessary it is, that an untruth of this nature, whether lightly or maliciously asserted should be traced to its author.

I have the honour to be &c.

A R T H U R L E E.

An answer to the foregoing letter addressed to Mons.

Mons. A. Lee.

SIR,

PARIS, April 9, 1779.

IN compliance with your request in your letter of yesterday, to be explicit, I now inform you, that I do not recollect ever shewing any letter to Mr. Deane that I thought had any reference to you; but

I well remember reading to him a paragraph out of a letter which I had received from London, stating that intelligence of the signing of the treaty with France, had been transmitted there, the very night on which it was signed expressed in terms which could not have been misunderstood, and which intelligence, from a concurrence of circumstances, appeared to have been communicated by your brother the Alderman. Of this fact I cannot suppose you ignorant. When I shewed this letter to Mr. Deane I meant only jocularly to upbraid his secrecy, respecting a transaction which I understood your brother had unreservedly communicated several months before; but I had no idea of bringing censure on any person whatever. I am confident no friend of mine *pretends* or ever did pretend, to have seen any letter which he did not see; and the particulars of the fact to which your letter alludes as far as my knowledge, goes you would have received as explicitly from me upon a personal application, as you now do in the formal mode of a reply to a written requisition.

I have the honour to be

S. P E T R I E.

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Copy

Copy of the reply to Mr. S. Petrie.

SIR,

APRIL 9, 1779.

I had the honour of receiving your answer of this day to mine of yesterday ; it is entirely satisfactory as to myself, but I cannot help believing your correspondent was mistaken in gathering from circumstances that my brother was the writer of such a letter, because I did not inform him that the treaty was signed, till long after ; and I am most sure he did not know it at the time he is supposed to have given the intelligence. I am obliged to you Sir, for the readiness with which you have given me this satisfaction ; and beg you will believe it was with much regret I gave you the trouble.

I have the honour to be,

A L E E.

N. B. Mr. Petrie was a merchant in London, and failed, he is now stationed at Paris to give intelligence for speculating in the stocks.

N U M B E R

N U M B E R. II.

*Extract of a letter, dated Nantz, January 22, 1778,
signed John Lloyd, and addressed to the Hon. Arthur
Lee, Esq. at Paris*

“ IN the several conversations which I have had with Mr. Carmichael, he has never hinted the least unfriendly disposition towards you, nor has he ever spoke of you but in respectful terms, and so far from co-operating with Mr. Deane, he condemns his conduct towards you, and is pointedly severe in reprobating the system and measures that he has pursued in his public character, and which he assures me he will fully unfold when he arrives in America. I was much pleased when he told me that he had opened a door of information to my friend Mr. Izard, by which you might enter, and become acquainted with transactions that he was confident the doctor and Mr. Deane were desirous to conceal from you. Mr. Carmichael's enmity seems to be levelled principally against Mr. Deane, but he does not fail in his censure on the Doctor's conduct.”

NANTZ, January 24, 1778.

I am since confident in my opinion, that Mr.
Carmichael

Carmichael is at present positively determined to expose, on his arrival in America, Mr. Deane's conduct as a Commissioner, in the fullest extent. His enmity is such that he has repeated it to several Gentlemen in equal terms of reprobation, and which are pointedly severe. I have not been wanting in my endeavours to discover his sentiments concerning you. But I cannot learn that he has ever spoke of you in the least disrespectful manner, but has signified that you had very just cause of offence against Dr. Franklin and Mr. Deane. The despatches which those Gentlemen entrusted to Mr. Carmichael's care he has given up to Mr. Williams, having resolved that he would not be the bearer of them, nor will he, I am told, embark on board the Deane Frigate.

Extract of a letter, dated Nantz, January 21, 1778. signed William Stevenson, and addressed to the Hon. Arthur Lee Esq.

“ I was rather surpris'd to find that Mr. Carmichael entered into a minute detail of some parts of Mr. Deane's private and public conduct, both which he reprobates in the strongest terms, and this in
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the most open and unreserved manner, without my asking any questions, or his making it a confidential matter; indeed my surprise has since ceased, as I find he has done the same to several others. He further tells me many things are done at Passy without your knowledge, and which you ought to be acquainted with. He says he has given Mr. Izard a clue by which you may get a knowledge of all their secret practices."

NANTZ, February 1, 1778.

Mr. Carmichael says *he knows Mr. Deane has applied the public money to his private uses*; that they have come to a resolution to do the business without consulting you on any occasion, and that he knows the excuse they will make to congress is that the French Ministry have desired it, though he does not doubt that desire has arose from Mr. Deane's insinuations.

N U M B E R III.

To the right Hon the Earl of SHELBURNE.

My Lord, December 23, 1776.

A very few hours after my last letter to your Lordship, brought me the desire of my country, to serve her in a public character. Your Lordship, I hope, thinks too well of me to suppose I could

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hesitate

hesitate a moment. In fact almost the same minute saw me bid adieu, perhaps for ever to a country where, from choice I had fixed my fortunes, and to a people whom I most respected and could have loved. But the first object of my life is my country; the first wish of my heart is public liberty. I must see therefore the liberties of my country established or perish in her last struggle. In truth, I have long despaired, even of a struggle in England for liberty. I will not insult Scotland with the idea. It is not the subtle Wedderburne poisoning the fountain of public security, nor the ruthless Thurloe deliberately butchering the liberties of his country that makes me despair, but—and yet, perhaps the people are only not virtuous, and America may yet, with a sort of filial piety, reanimate her expiring constitution. Our pater patræ with whom and Mr. Deane I am joined in power, as in good health and spirits. If fate will have it that America as she has reared her temples and altars to liberty, must furnish her victims too, I know not where she can find a sacrifice more acceptable. Should the event of this measure be found fatal to England, it is the perfidy of her Ministers, which

which would never offer any thing that could be trusted, which compels it, and to which the consequences are justly imputable. I beg your Lordship to remember me as one who can never cease to have the most perfect esteem for you. I have communicated to the Abbe Raynal all the facts I could collect, in answer to his questions. He will write to you soon. May I beg to be remembered to our friends in the college; and to those out of it who, I hope will always do me the honour of remembering me, Colonel Barre, Mr. Dunning, Dr. Priestly, and Dr. Price.

I have the honour to be &c.

(Signed)

A. LEE.

To the right Hon. the Earl of SHELBURNE.

My Lord,

December 10, 1777.

I have the honour of enclosing to you the copy of a letter, transmitted at the same time to the Lord of the treasury. The honour of the nation and the rights of humanity are too much interested in the object of it, not to receive your Lordship's advocacy. The enclosed papers contain the principal transactions between the northern armies. The
burning

burning defenceless towns and every thing before him, as General Clinton has done, will probably draw upon him and his, the vengeance which such enormities deserve, in spite of all the endeavours of Congress, to prevent any hasty retaliation. The South Carolina Gazette mentions the arrival of an American Captain, who had been taken by Captain Jarvis and who mentions with the highest praise, the generous and humane treatment he received from that officer. We have had from other prisoners, accounts equally to his honour, which I am sure will give your Lordship pleasure. Capt. Jarvis may be assured that such conduct will command from us the praise and esteem which are always due to a generous enemy. The necessity which has made us enemies for a time, and separated us for ever from the same government, has not altered the esteem I felt for the good and wise in England. Among those I hope your Lordship and your friends will accept an assurance of my respect and friendship. I condole most sincerely with the family at Coombwood for the misfortune at New York.

I have the honour to be, &c.

(Signed)

A. LEE.

N U M B E R

N U M B E R IV.

Copy of a letter from Mr. Thomas Morris to Mr. Jonathan Williams, dated Nantz, December 5, 1777.

SIR;

THE private concerns of our house occupying the principal part of my time, I find it necessary to have some one to assist me in conducting the business committed to my care by the Secret Committee of Congress. And as you gave me to understand yesterday upon 'Change, you was disposed to take an active part in this business, I hereby authorise you so to do; and request, that in answer to this, you will promise to attend to such matters as may be committed to your management, and by your letter obligate yourself to be responsible to me for the net proceeds of any effects, public or private, you may have the disposal of, upon all sales and purchases. *I hereby agree to divide the commission of five per cent. mutually between us.* If these terms are acceptable, you will be good enough to let me

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know, and we can then make such arrangements as may be necessary.

I remain, with sincere regard,

Dear Sir,

Yours, &c.

(Signed)

THOMAS MORRIS."

Copy of a letter from Mr. Jonathan Williams to the Commissioners, dated Nantz, Feb. 28, 1778.

THE Ranger has cost a great deal of money; her account will also soon be handed to you: but I must beg leave to remind you of the agreement made with the late Mr. Morris, by which I was to account with him for all sales and purchases that I should make in consequence of his authority, charging the commission of five per cent. allowed by the Committee of Congress between him and myself. I beg therefore to know whether I am to consider the Ranger's account as part of his business, or whether I am to consider my conduct as in consequence of that power only.

£. s. d.

Five per cent. commission on the Ran-

ger's disbursements, - - 373^s 13 3

Five per cent. commission on the In-

dependence, - - 23^s 9 11

N U M B E R V.

Report upon the accounts delivered in to the Commissioners by Mr. Jonathan Williams, July 15, 1778.

THAT there are 161,655 livres and 2 sols, charged improperly to the account of the Commissioners, being expended in business for which he had no orders, and which was totally foreign to his duty as agent to the commissioners: That this creates a balance at the end of May, against Mr. Williams of 159,094 livres 5 sols, due from him to the public. That Mr. Williams having always had an advance from the public either in the actual balance, or in credit given and accepted by Mr. Grand the public banker, there ought to have been an allowance of 6 per cent. to the public, on the expenditure of

of this money (except in some articles where prompt payment without the discount is customary) which upon so large a sum as 1,128,011 livres is considerable. That though it appears from Mr. Deane's letter in April 1777. that a plan for sending despatches in the cheapest manner was transmitted to Mr. Williams, yet from the latter end of November 1777. to March 1778. there are these enormous sums charged for expresses, 842 livres 8 sols, for postage of letters 1858 livres 11 sols. To show the extravagance of this it may be observed that the whole expense of the commission in despatches, postage, &c. in our banker's accounts from February 1777 to March 1778. being treble the time, is only 1803 livres 10 sols. That though Mr. Williams says the 3600 livres charged to the public on account of Mercier, which the public has already paid, is on both sides of the account; in fact it appears on the debtor side only. That in the account of the out-fit &c. of the Deane after every article charge and expense is made in the detail, there is a lumping article of "charges by Jonathan Williams," 297-9-9-5, and upon this a commission of 2 per cent. is charged, all
which

which I take to be erroneous; besides Mr. Williams's charge of 2 per cent. commission amounting to 6607 12 4, which is the usual mercantile commission. The public is charged with an additional 1 per cent. to Peltier du Doyer, who in fact it seems did the business, though Mr. Williams was on the spot. From whatever cause Mr. Williams's incapacity to do the business arose, for which the public is to pay the above commission, is immaterial. He who did it is to be paid, and no more than what is usual can be permitted to be charged. In the same manner on the cannon shipped in the Independence, there is 2 per cent. commission charged by Mr. Williams, and 1 per cent. by Mr. Peltier 46l. 17 sols and 93l. 14 sols, and the same on anchors imported from St. Sebastian 207 4 4 and 414 10. It is therefore manifest that the public is charged in the account with 3 per cent. instead of two, and yet Mr. Williams, in his memorandum, says, "As J. Williams made an agreement with Mr. Peltier to divide this commission between them, it really cost but 1 per cent." That there is not only a separate account of charges on goods received for shipping, the whole

R

amount

amount of which with the commission (20861 3) is carried to the general debit; but there is also in the general debit 1145 16 9 charged for carriage of clothing, which must be included in the charges on clothing, in the former account, and is therefore a double charge. That with regard to the separate account, there is not only the detail of articles and charges, but there is added

| | | | Livres. Sols. | |
|-------------------------------|----|-----|---------------|----|
| To charges on fundry goods, | | | 2532 | 13 |
| To do. | on | do. | 85 | |
| To do. | on | do. | 13 | 18 |
| To do. | on | do. | 94 | 5 |
| To do. | on | do. | 222 | 14 |
| To do. | on | do. | 542 | |
| To charges on fundry charges, | | | 171 | 12 |

To this is added a strange allowance to Mr. Pel-
tier of 873-2. On these accumulated with the de-
tail charges is a commission of 2 per cent. Then
comes a supplement and commission upon it. All
these are either double or inexplicable charges. That
there is a commission of two per cent. charged on
clothes and arms remaining to be shipped, 2438
livres which I believe is a new kind of charge. That

as the disbursements on the Ranger are improperly charged to the commissioners, that business belonging to others, and they having not given any orders for it, the charge of 3738l. 13s. 3d. for 5 per cent. commission, though not allowable, must be regulated by the Commercial Agent. That the sums charged as lent to prisoners, for which not a single receipt is given in, are enormous. These prisoners had been before provided for by the public, and their expences paid to Nantz, where it was expected they would not only cease to be any farther burthen to the public, but relieve us from the necessity of making enormous advances to French sailors. Instead of this we find the charge of 5904 livres for a few persons, being more than they cost at and from Dunkirk to Nantz, and fully sufficient to have maintained them half a year. It is this lavishing the public money in a thousand ways, which has made the expenditure so great, and the supplies so small, that he has shewed no order from the commissioners, nor had he any, for lending 20,000 livres to Mr. Ross, which he can therefore have no right to charge to the public. That 720l. 11s. are by his
own

own confession charged double. That his remitting a bill upon Mr. Claumont of 50,000l. to Dr. Franklin, which the latter has endorsed to the former, has no concern with the commissioners to whom that transaction has never been communicated. Money was remitted from the public funds in Paris to Mr. Williams at Nantz at a considerable loss in discount, to purchase supplies for which there was the utmost urgent demand. Instead of applying it to that purpose, he remits back 50,000l. to Dr. Franklin, which is secretly negotiated to Mr. Claumont, never brought to public account nor made known to the other Commissioners, till an enquiry into this article compelled it. At the same moment Mr. Williams was continually drawing more money from the public banker * at Paris to Nantz, as appears by the bankers account. Mr. Williams pretends this was to pay an account of Mr. Claumont's against the Commissioners, but what he had to do with any such account which has never been sent to the Commissioners, or who ordered him to pay an account at Paris, what sense there was in doing that by drawing the money from Paris

* See Page 50.

Paris to Nantz and then remitting it to Paris, he has not told us. So secret, so circuitous, so absurd a transaction, is too suspicious to be allowed. For if such modes of accounting for the expenditure of the public money are permitted, there will be an end to all possibility of settling accounts, or saving the public from continual impositions.

That in fine, though it is near five months since the vessels sailed, Mr. Williams has not given in a single voucher or receipt to support the accounts which he has at last laid before us, and which depend entirely on his own vouching. For these reasons I am of opinion that his accounts are erroneous, and ought not to be passed.

(Signed)

A. L E E.

Z

Extract of a letter from — Digges, Esq. to the Hon. Arthur Lee, Esq. dated Bristol, August 30. 1778.

“ IT is beyond a doubt that there were very considerable sums done in the stocks by the friends of a certain quondam commissioner, about November and

S

December

December last, in consequence of the arrival in London of Dr. Bancroft, with the news of the favourable turn given to American affairs by the surrender of Burgoyne's army. The Doctor was in close cog. all the time he was in London, and was never visible but to the brothers (meaning the Whartons in London) and one or two other confidants, whom I always shunned on account of their intimacy with Vansittart, before and after his apostacy in exposing the letters he bore from American people in London to their friends in Paris, among which were some of mine. During the time I was busy in London getting forward the subscription for relief of American prisoners, and when Mr. Thornton was over about them, I gave that gentleman a full verbal account of this infamous transaction of Vansittart, in order that it might be made known to your community; and I wrote particularly to you and Mr. Izard by Mr. Thornton, about it, as I am positive of the facts alledged against him. Vansittart seems to have got his deserts, for I hear he is shunned by your community as well as all his countrymen in France: You may assure yourself that Lord North, Mr. Knox, Mr,

Mr. Hartley, and some others about the Secretary's Office, knew of Dr. Bancroft's being in London, the former had information of what he was about, and had him dogged more than once to the house of Samuel Wharton, at late hours in the night. I had convincing proofs of this before the Doctor took flight to France, and being then in intimacy with Samuel Wharton (from knowing he had the confidential correspondence of Dr. Franklin, and getting him at times to forward my letters.) I went to him and expostulated with him on the impropriety of Dr. Bancroft's being in London on a stockjobbing errand, in which it was very visible Mr. Deane was concerned, and that Dr. Franklin was not absolutely ignorant of it. It is natural to me, Sir, to feel much where my country is concerned. I have often wished my feelings less, but at that period of time I was more than usually agitated and unhappy.

Many hundred American prisoners were in a starving condition from cold and famine ; numbers were daily taken at sea, and forced to war against their countrymen on board English ships. Every person who came from France told me it was but a partial

partial assistance that country was giving to mine, and every mouth was full of the difinity that subsisted in your small community. That the two first commissioners formed a party against you; that one of them at least, if not both, had united against you, in a manner very unjustifiable, both in respect to yourself and the business you were concerned in; and that a vile combination subsisted to reduce you, not only to a cypher, but to sink you into contempt; that you were not in the confidence of the other two, and a variety of other tittle tattle stories, chiefly levelled at the consequence of yourself and brother, for he too has had his share of abuse, particularly as to the story of the ill consequence of his selfishness in regard to his losing two or three West-Indiamen, which were carried into Nantz last summer, and were given up to their owners in London; a lie that both from my Nantz letters, as well as other conviction here, I had in my power to flatly contradict it. There has been a story lately against Samuel Wharton, which will make me more cautious than ever I was with him. It is something similar to that of Vansittart, and came originally from the

the same informant, Mr. Williams. Mr. Wharton has however, (as Mr. Craig informed me) cleared up this matter to Dr. Franklin, and satisfied Mr. Williams. He must therefore stand acquitted, whatever we may think. J. Wharton, his brother (who is an honest, careless, ruined man) has been the principal negotiator of stock and gaming policies on a French war; he has repeatedly wished me to join him in such business (which I ever did, and ever shall refuse to do.) He once or twice told me his information of the state of politics came from Mr. Deane, and that there was security in such a gambling scheme; but I much fear, from his present circumstances, he has been fatally deceived. In short, Sir, there has been much done by the two brothers, Dr. Bancroft, and two or three others, and it is evident to me Mr. Deane either had an hand in it, or gave his countenance thereto, and that Dr. Franklin knew of the transaction.

— *True Copy from the original,*

LUDWELL LEE.

In a letter from Jonathan Williams to Silas Deane, dated Nantz, March 26, 1778, are these

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words :

words: " I received your favour of the 21st inst. and observe that my draughts will continue to be accepted. It would be less troublesome to you, and most beneficial to my credit, if you would give *Mons. Grand* a general approbation; for if every draught is to lay unaccepted till *Mons. G.* can have an opportunity of presenting them to you, the holder will not have a very good opinion of my solidity; and *Mons. G.* I suppose, will not in future accept till after the bills are presented, for he has written, I suppose, a dozen of times to me desiring your approbation of what has already been drawn over the established credit."---It must be admitted that it was very modest in this young man to desire unlimited liberty of drawing on the treasury of the United States in France!---Query, Would he have written such a letter to any man but his partner?

T H E E N D.

(1)



OBSERVATIONS

ON CERTAIN

COMMERCIAL TRANSACTIONS, &c.



(2)

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(3)

OBSERVATIONS

O N C E R T A I N

COMMERCIAL TRANSACTIONS

I N

F R A N C E,

LAID BEFORE CONGRESS.

B Y

A R T H U R L E E, Esquire.

P H I L A D E L P H I A :
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1823

ADVERTISEMENT.

THE present distressed state of our finances, when our army can neither be paid nor clothed; when our paper currency, for want of proper funds to support it, is depreciated almost to nothing; and when a variety of calamities press hard upon us, makes it necessary that the following facts should be laid before the public.

France could, and probably would have been more liberal in her supplies, had she not been witness of the ill use that has been made of the little she has afforded us. Mr. Neckar, the comptroller general of her finances, is an able and faithful servant of his Prince. He is continually occupied in promoting æconomy, and in correcting the abuses which France has long experienced, in the expenditure of her public money. If it has been represented to Congress that he is averse to

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granting

~~6046.20~~

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[6]

granting us money, some of the causes may probably be found in the following pages; and though, perhaps, not an hundredth part of the abuses which America has hitherto patiently borne, are there to be seen, it must not be supposed that so attentive an observer as Mr. Necker is, can be ignorant of the rest. Those abuses ought to be enquired into; and no man's situation, let it be ever so exalted, should exempt him from punishment, if he shall be found to have contributed to them, even by his countenance and protection. The history of the world in all ages furnishes many examples, that those men, who have received the greatest favours of their fellow-citizens, have often proved the least deserving of them.

OBSERVATIONS

Observations, &c.

THE conduct of Dr. Franklin, and his nephew, Mr. Williams, touching the accounts of the latter, has been such, as obliges me to state the whole of their proceedings for the judgment of Congress.

Mr. Jonathan Williams, came to Paris soon after our first arrival there, as commissioners, and offered his service in any way that we could employ him, so as to get his bread, which, he said, was all he desired.

We agreed to send him to Nantes, to examine the cargo of the *Mercure*, and that the public should bear his expences. While I was in Spain, my colleagues employed him in other similar business at
Nantes,

Nantes, and he was allowed, besides his expences a gratuity for his trouble.

On my return from Germany, it was represented to me, that, in my absence, Mr. Williams had, by order of the commissioners, engaged for the building of a ship at Nantes, and for the purchase of fundry goods for the public. That for this purpose, it was necessary he should have credit with our banker for 500,000 liv. for which he would regularly give in his accounts. I asked what agreement was made with Mr. Williams, and was repeatedly told by Mr. Deane, that he was to have a small gratuity allowed him for his trouble *, and that no one would do the public business so well, and upon such low terms.

As

* This allowance is thus charged,—May 12th, 1777. To my allowance in superintending the loading and dispatching the Mercury, Therefe, exprefs to Congress by the Lynch, the care of the Magazine, and various business from Jan. 12th, to May 12th, inclusive, is four months, charged by direction of the commissioners

2880 liv.

His resident expences (all others being charged apart) charged for the same space of four months,

1817

4697 liv.

which in the year amounts to 14997 liv. or about £ 700 sterling a year.

As it was totally indifferent to me whose nephew or relation did the business we had in charge, provided it was well and honestly done, I signed, on the 13th of September, the order, which was presented to me, already signed by my colleagues, for that sum.

During my absence, my colleagues had also given Mr. Williams a power to sell the prizes made by Wickes's squadron, which produced much contention between him and Mr. Morris. With this business I avoided meddling as much as possible. But when it came before us, by the complaint of the commercial agents, I found that my colleagues could not produce any authority for what they had done, and professed their determination to recal the order; proposing at the same time to vest the whole in my brother. From the last proposal I dissented, for reasons I have already given. The first they not only did not execute, but confirmed the order.

For three months no account came from Mr. Williams, and I found he was going on to expend large sums in orders given by Mr. Deane alone, and that there were more than suspicions of his being employed in sending out cargoes for Mr. Deane and

himself. This intelligence induced me to apprehend, that an improper use might be made of the public money; which apprehension was increased by repeated demands from Mr. Williams, for the advance of large additional sums *, without any account of the expenditure of what was already granted. I therefore refused to concur in the order desired for the additional sum of 200,000 liv. till some account was rendered of the former advance.

On the 9th of Dec. I wrote to Mr. Williams in the following words: " I am to inform you, that you are not to consider any letters or orders signed by Mr. Deane alone, as the act of the commissioners; and that you will not be justified in acting under such authority in what concerns the public †."

I wrote at the same time to Mr. Deane, remonstrating against orders being given that concerned the public, without communication with me, concluding with these words, " the impropriety of any such proceeding

* " *Nantes, Dec. 30. 1777.* My last desired a credit with Mr. Grand, for 200,000 liv. more, which I hope you have been pleased to grant."

(Signed,)

JONATHAN WILLIAMS."

† Letter Book, vol. I. p. 144.

proceeding cannot escape you, and I hope it will not be repeated in future."

They continued, however, to act exactly the same, and I found that nothing but an open quarrel with Mr. Deane, would remedy it. But as in the then situation of our affairs, I conceived an open rupture would be still more injurious to the public, I forbore to make any further opposition.

Mr. Williams continued to draw on our banker, without any order from the commissioners, and Mr. Deane, notwithstanding my dissent, accepted his bills. After Mr. Deane's departure, Mr. Grand informed me of this; and that Mr. Williams continued constantly drawing on him. Upon this I wrote to Dr. Franklin, as follows:

Cbaillot, April 3, 1778.

"SIR,

"Mr. Grand has informed me, that Mr. Williams continues drawing upon him, though he has received no order to answer his draughts. I believe too he has no funds in his hands at present. As this is an *irregularity*, I have thought proper to advise you of it. For myself, having not been informed or consulted

consulted about the orders that have been given to Mr. Williams to fulfil, I am incapable of judging what propriety there is in his drawing upon our banker, but I am sure the latter ought not to pay any draughts out of the public funds, without our orders.

I have the honour to be, &c."

To this I received no answer, and the practice continued; there being no alternative, but hazarding a quarrel with Dr. Franklin, or urging it no farther. I preferred the latter, as likely to be the least injurious to the public, and in hopes the arrival of another commissioner or of a commercial agent, (as my brother and myself had often and long before written to press for one being appointed in his place) would remedy the evil without any disturbance. I must here say once for all, that apprehending the mischievous consequences to the public of an open quarrel between the commissioners, the rule I laid down for myself was, to endeavour to remedy what was wrong, by representing it to my colleagues, and if by mild means it could not be prevented, to submit to it for the time.

On

On my brother's appointment of Mr. Schweighauser to act in his absence, Mr. Williams immediately commenced a dispute with him, by informing him, that he had prior and superior powers, in the following words: "I have been appointed to receive all public dispatches that may arrive at this port. *Ships of war* in the service of the United States *are to my address*, and I have particular powers to dispose of their prizes, which the *commissioners inform me*, (as well as the ships of war) are under their *sole direction, by express order of Congress*. I have another power of the same nature with yours from Mr. Lee. Mr. Thomas Morris a short time before his death, committed to me the future management of *all business entrusted to his care*, by the secret committee of Congress. This he did without any desire from me *, and by his supposing that his own power for doing so was sufficient. I apprehended that by the promotion of Mr. Lee to an embassy,

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the

* On the contrary, it appears from Mr. Morris's letter, that it was in consequence of Mr. Williams's express desire and wish, to take an active part in the business, that he gave him those powers

the appointment they before held jointly, had devolved on him alone."

Mr. Schweighauser sent me a copy of this letter, and desired my advice. It was necessary to see the powers under which Mr. Williams claimed, before I could advise. I had not seen them, contested as they had been, nor had ever concurred in such as he claimed, or been able to obtain a sight of this express order of Congress from which they derived their authority: I therefore wrote to Mr. Williams for authentic copies of these powers, and of the information said to have been given him by the commissioners. Mr. Williams sent me accordingly, with Dr. Franklin's permission, copies of the letters to him from the three commissioners, from Dr. Franklin, and Mr. Deane, from all of them apart, and from Mr. T. Morris.

By the first *, he was authorized to superintend the dispatch of a small packet to America, and to receive and forward any dispatches that might arrive for the commissioners; by the joint letter † from Dr. Franklin and Mr. Deane, Capt. Wickes was directed

* Dated, May 1, 1777. † Dated, July 4, 1777.

directed to address himself to Mr. Williams in the disposition of his prizes, and other concerns, and to give the same directions to Captains J. Lincoln and Nicholson. Mr. Deane † informed him, that the prizes made by Wickes's squadron were immediately under the direction of the commissioners, by express order of Congress, and under no other persons; adding, "We therefore, direct you not to give way to any pretensions of any one; but consulting with Mr. Ross and Capt. Wickes, proceed to dispose of the prizes, and to settle their affairs." Dr. Franklin's § assured him, he would be justified if he had no orders at all; but as Mr. Deane generally consulted with him, and had his approbation, he confirmed the orders he had given." That from Mr. T. Morris's ¶ contained the following words: "As you gave me to understand yesterday upon 'change, you was disposed to take an active part in this business, I hereby authorize you so to do, and request, that in answer to this, you will promise to attend to such matters as may be committed to your management,

and

† Ducl, July 4, 1777. § Dated, Dec. 22, 1777. ¶ Dated, Dec. 4, 1777.

and by your letter obligate yourself to be responsible to me for the net proceeds of any effects public or private you may have the disposal of, upon all sales and purchases, I hereby agree to divide the commission of five *per cent.* mutually between us."

Upon a perusal of all these powers, I returned Mr. Schweighauser the following answer:

Cbaillot, April 29, 1778.

" Sir,

" The powers given to Mr. Jonathan Williams by the commissioners are, to load goods to a certain amount in a packet boat, chartered by them monthly, and to take care of their dispatches.

" The powers given him by Mr. Deane *, relate expressly to the prizes made by Capt. Wickes's squadron, and the ships that composed it. Those powers [were not only given by one who had no authority to give them, but] are now ended with the existence of the objects of them."

" Mr.

* Mr. Williams concealed from me those letters from Mr. Deane, by which Mr. Deane had confirmed and extended his former powers.

“ Mr. Morris's letter, under which he claims the commercial agency, speaks of such matters as may be committed to his management. That power too [equally questionable as to its authority] is now at an end with the dismission of Mr. Morris, and the sole appointment for the time being of your Principal, by the Commercial Committee of Congress, on the 17th Dec. 1777. in these words :---

“ Should any cargoes arrive thereafter, consigned
 “ by bill of lading to the joint order of Messrs.
 “ Thomas Morris and William Lee, Mr. Morris is
 “ not to have any share in the direction or manage-
 “ ment, that being remitted to Mr. Lee alone, until
 “ another appointment, or farther orders take
 “ place. (*Signed*) R. Morris, W. Smith, Fra. Lewis,
 “ Wm. Ellery, Corn. Harnett.”

“ You, therefore, see, Sir, that the powers given to Mr. Williams are totally distinct from those deputed to you, and that he is mistaken in thinking he has any right to interfere with you.”

I sent this letter first to Dr. Franklin for his approbation, who returned it, with a note, that the

words between the crotchets seemed to be unnecessary, and they were therefore left out.

Notwithstanding our repeated letters, Mr. Williams, upon various pretences, would not send us his accounts; but Capt. Jones bringing in some prizes, he recommenced the dispute with Mr. Schweighauser, under a plea of having authority from the Commissioners. To settle this, we wrote to him on the 20th of May, revoking all powers that might have been granted him by the Commissioners or any of them, and adding, "We have farther to repeat our earnest request, that you would lay your accounts before us, as soon as possible, because until we have them, we can never know either the state of our finances, or how far the orders of Congress for stores and merchandises to be shipt to America have been fulfilled."

At length Mr. Williams arrived with his accounts, which, when given in, I examined, with astonishment, that he should suppose they would pass. I have however sent copies of them, and Congress will judge of their sufficiency to answer for the sums received and demanded. I gave Mr. Williams a note in writing on the 11th of June, of the
requisites

requisites to his accounts, in order to settle them, among which was stated---“ The vouchers, such as receipts, bills of lading, &c. that these should be numbered, and referred to by the numbers in the different articles of the accounts.” I mentioned, at the same time, that it was necessary for his credit, and for our security, that the vouchers should be given in with the accounts, in order that whoever might come after us, or into whatsoever hands they might fall, the proofs of their being fair might accompany them.

His answer was, “ The vouchers, receipts, &c. were ready to be shewn when called for, to support every charge Mr. Williams makes, but he must keep them for his own security with the persons he has employed.”

Whether such vouchers ever existed, I cannot tell. I am only sure, that I never could get a sight of them, with all his professions of readiness to shew them, and desire to have his accounts settled. I suppose too my colleagues never saw them; since, tho' they gave him an order for the payment of the balance he demanded, they stipulated that it should not
be

be considered *as any approbation of his accounts* *. There must have been something very dark and suspicious, one would imagine, in accounts which he could not prevail upon those who were not unfavourably disposed toward him, to approve.

After repeated attempts, on my part to obtain these vouchers, with as repeated disappointments, I wrote Mr. Williams the following answer to all his letters on the subject.

Sir,

* Mr. Grand a l'honneur d'envoyer a M. Lee, suivant ses ordres, copie de la lettre de Messrs. les deputes, le Dr. Franklin & Adams, a M. Grand, en date 10 Juillet.

" Mr. Grand,

" We agree, that the bills drawn on you by Mr. Williams, and paid by you, according to the list herewith transmitted, shall be charged to the public account of the United States, Mr. Williams to be accountable for the expenditure of all the said sums to Congress, or to any person or persons appointed by Congress for that purpose; and to the Commissioners of the United States at the Court of France, whenever he shall be called to render such account. This consent, however, is not to be considered as any approbation of his accounts, nor to have any influence at all in the final settlement of them."

(Signed)

B. FRANKLIN.

J. ADAMS.

Dated, *Passy*, July 10. 1778.

Chaillot, August 5, 1778.

" Sir,

" I have received your several uncivil letters, not to speak of them in the harsher terms they deserve. I have only time to answer, that as I conceive it more decent for you to come and receive the letters you desire, than that I should be the bearer of them to you, as you demand; they will remain here to be delivered to you when you call *. At the same time I again and again inform you, that you must bring me the copies of those letters † which I have so long and repeatedly desired. You know that I had examined your accounts---that I could not consent to pay the balance you demanded of the public, because I thought it unjust---that I desired you to
 F produce

* These were some letters from Mr. Deane to him, relating to his accounts, which I took to examine with them. Upon Mr. Williams's sending a servant for them, I wrote him that I did not think it proper to deliver them to any one but himself; to which he answered, that he had neither leisure nor inclination to come to my house, and that I might bring them back to Passy, from whence he did not know what business I had to take them.

† These were letters from Mr. Deane, to which, on being pressed, he referred to for his orders. But I could not obtain copies of them, till after he was paid.

produce the vouchers which might clear up what appeared to me on that examination to be erroneous. Yet instead of doing this, you have the decency to demand that your accounts may be examined ; and to complain of injustice in this not being complied with.

As to the original vouchers, you surely must have known, that copies of them, compared before me with the originals, was an easy and obvious way of doing what you was desired. You will besides remember, that your excuse at first was, that you should be obliged to go to Nantes for many of the vouchers required. You have long complained that the want of an order on Mr. Grand prevented you from attending to your private business at Nantes, to your great injury. Yet all the time you knew that what delayed the settlement of your accounts was your *not giving in the vouchers desired*. And though, without settlement, my colleagues have long since paid you the full ballance you demanded, with the addition of 17272 liv. for which no account is rendered, yet your affairs, which pressed so much before, have not yet called you to Nantes. If you think, that, instead of doing what you are desired,

in

in order to account distinctly for the expenditure of public money you have taken out of our banker's hands, these ingenious devices, which evade it, will do you either honour or advantage, you are of a different opinion from me. *I leave, &c.*

" P. S. I desire Mr. Williams will understand, that I am ready to receive the vouchers required, and compare them as above. When Mr. Williams had, as he says, " the instances of my applause and approbation recent in his memory," how could he suffer himself to take up this business in so personal and disrespectful a manner, and to suppose that my conduct was prompted by any other motive than a desire to do justice to the public, and discharge my duty *."

It was a little extraordinary, that professing the most violent desire to have his accounts settled, he should quarrel with me for examining and attempting to settle them---that pretending to have the vouchers, he would not take the trouble of producing them; but instead of this, should choose to pester me with complaints about his honour and reputation,

* Letter Book, Vol. II. p. 92.

on, the spirit of a gentleman, the doubting a merchant of established character, and such stuff, as made me really suspect him.

If he could have vouched and cleared up his accounts, it was his duty and interest to do it. True spirit would have prompted him to write night and day, or to have paid any expence for having the vouchers copied, if they existed, to remove what he pretended to consider as an imputation, the objection of not having produced such vouchers. If he thought his honour and reputation impeached, it was not a very satisfactory way of vindicating them, by attempting to remove his accounts from my examination, instead of proceeding to prove to me that they were just.

It is but too plain, that he wanted his accounts examined and settled; but not as I was likely to examine and settle them.

A month after the order from my colleagues to Mr. Grand, to pay all the bills he had drawn upon him, Mr. Williams went down to Nantes, leaving me to settle his accounts as I could. I have mentioned that he was paid 17272 liv. more than the balance of his account given in. This sum he had
drawn

drawn upon the banker for, while he was here without any permission, and under a question, whether he was not, by his account, a debtor to the public. Yet this was ordered to be paid, as well as the rest. Besides this, he had in his hands 6000 liv. belonging to the public, remitted to him by Mess. Delaps at Bordeaux. To account for this money, and to make a farther demand, he sent up from Nantes another account, in which this money was stated to have been spent in gunstocks bought here to be sent to America *, in paying his expences in

G

coming

* The idea of laying out the public money in such an article as gunstocks, is so new and ingenious, that it is a striking proof of what Dr Franklin says, "That his nephew always acted *uprightly and ably* for the public service." That this contract for gunstocks was a new thought calculated for the purpose of accounting for the money received, is rendered very probable from the following passages in Mr. Williams's letters:—March 1, 1777. "I can have great part of the infantry guns broke up, and the barrels in cases put on board, without taking up much useful room." Feb. 25, 1777. "I have made some enquiry about the probable bulk of the gun barrels without the stocks, &c. I can get the greater part of these barrels on board. The fusils de rampart have so good stocks that they need not be dismounted." After this is it not a little surprising to find the public charged

coming to Passy to settle his accounts, with a Louis-d'or a day, as a gratification for every day he stayed, including *thirty two days* after he received the order for payment of all the money he demanded; and in sundry expences for the magazine, posterior to his having any concern in it, and his having wrote us that he had given orders for dismissing all the workmen. Not a single receipt or voucher accompanied this account.

Having examined it, I sent it back to Passy on the 6th of October, with the following indorsement; which I did on purpose to prevent any further equivocation, under pretence that my objections were not so and so, or were forgotten or not seen, &c. &c. The objections would thus go with the account, from which it would appear whether they were founded, and no person could examine the one, without seeing the other.

Copy of the Endorsement.

“ There are charged in the magazine account 7000 gunstocks, for which 6375 liv. are said to have been

charged with near six hundred pounds sterling for gunstocks, independent of the absurdity of sending such kind of wooden ware to America.

been paid to a M. Perouty, and 7800 more are contracted for ; all these without orders and without reason. There are 9713 liv. 14 s. said to have been paid to the same Perouty, without saying for what, and we are told by Mr. Williams, in his note, that a M. Raquin furnished the other articles for reparation. There are in the same account, 10,804 liv. charged for sundries, and 2382 in cash, without any explanation. Mr. Williams wrote to the Commissioners on the 3d of July, that he had ordered the workmen to be discharged, and the repairs stopt, yet he charges down to the 5th of September. I have examined the within accounts, the articles of which may be distinguished into such as are---without orders, or manifestly unjust, or plainly exorbitant, or altogether unsatisfactory, for want of names, or dates, or receipts, or any other voucher whatsoever. Being also perfectly satisfied from his own accounts, that Mr. Williams has now, and has long had in his hands, upwards of an hundred thousand livres belonging to the public, which have not been employed to the public use, or by the order of those who were entrusted with the public money, I do refuse to concur in passing these accounts,

counts, or allowing the balance demanded; and I do protest against such use of the public money."

On the 8th of March 1779, Mr. Williams sent me the following copy of a letter from him, some time before to my colleagues, demanding at the same time to have the question between us, as he thought proper to term it, determined by the American gentlemen; every one of whom, Messrs. Johnson, Ross, and Wharton excepted, were that day packing up to embark, the frigate having arrived to convey them the day before.

*To the Hon. B. FRANKLIN, and J. ADAMS,
signed, JON. WILLIAMS.*

Nantes, Jan. 21, 1779.

" *Hon. Gentlemen,*

" I am well informed that two endorsements have been made on the accounts I have had the honour to present to the Commissioners, one of which contains accusations as injurious to my reputation, as they are false and malignant; the first of these endorsements is on my account dated Sept. 10, 1778. and is written in the following words,--"*N. B.*
" The order from B. Franklin, and J. Adams, Esqs.
" for

“ for the payment of all Mr. Williams’s demands,
 “ is dated the 10th of July, yet he charges a
 “ Louis d’or a day from that time to the 11th of
 “ August, besides the whole charge being such as
 “ was never heard of before.”

(Signed) ARTHUR LEE.

The charge here mentioned appears to me reasonable, and is by no means unprecedented. I left Nantes by order of the Commissioners to lay my accounts before them, I was a long time in Paris for the sole purpose of having them settled, and I returned as soon as I thought myself justifiable in so doing. Five Louis d’ors a day is certainly not an object for a merchant’s absence from his business.

The second indorsement contains accusations of a most criminal and atrocious nature, and which, if true, would deservedly brand me with the name of villain. But, I trust in God, my character, hitherto unimpeached, will stand the piercing eye of justice, and this appellation be elsewhere more properly applied. On the back of my accounts *settled* May 30, 1778, is thus written .---“ At Chaillot,
 “ 6th Oct. 1778. I have examined the within ac-
 “ counts, the articles of which may be distinguish-

“ ed into such as are, without orders *, or mani-
 “ festly unjust †, or plainly exorbitant ‡, or alto-
 “ gether unsatisfactory for want of names, or dates,
 “ or receipts, or any other voucher whatsoever §.
 “ Being also perfectly satisfied, from his own ac-
 “ counts that Mr. Williams has now, and has long
 “ had, in his hands, upwards of an hundred thou-
 “ sand livres of the public money, and which has
 “ not

* Remitted to M. Chaumont, 50,000 liv. Advanced Mr. Poff
 20,000, Liv. 70,000

† Sundries, 3662; do. 10804; cash, 2382; for set-
 tling his accounts, 2142; for arms repaired, 32836;
 supplement to Deane's account, 1471, 53,297

‡ Postage of letters, 1838; expresses, 842; advanced
 to Americans, many nameless, 13,754; commission on
 the estimates overcharged, 1700, 18,187

Liv. 141,484

§ The whole account. There are some examples; but there
 are many others. As Mr. Williams says the business was mostly
 done in Nantes and its neighbourhood, almost all the postage
 must have been from Paris, and as a letter and its cover is half
 a livre, it is at the rate of more than eight such letters every
 day in the year, and supposing Mr. Deane to have paid the same
 for Mr. Williams's answers, then this amiable and useful corre-
 spondence must have cost the public 3716 liv. or 170 pounds
 sterl. per annum.

" not been employed to the public use, or by order
 " of those who were entrusted with the public mo-
 " ney, I do refuse to concur in passing these ac-
 " counts, or in allowing the ballance he demanded ;
 " and I do protest against such use of the public
 " money." (Signed) ARTHUR LEE.

" This violent attack on what is most dear and
 valuable to an honest man, was so privately made,
 that I am indebted to accident only for the know-
 ledge of it. He who can deliberately massacre the
 reputation of another, must not only be lost to the
 exquisite feelings of humanity in himself, but must
 delight in glutting his soul with the carnage of cha-
 racters. The accusation of my transactions being
 without authority is an affront to the characters of
 Dr. Franklin and Mr. Deane, for I have their ex-
 press orders to support me in them ; *but if I had not **,
 would

* The uncle's doctrine we see was not lost upon the nephew,
 " you would be justified if you had no orders at all." They
 were to be the sole judges of what was for the public good, and
 this and their own private good were always in perfect har-
 mony. Whatever Mr. Williams made a commission by, whether
 old gun barrels, or new gun stocks, was equally for the public
 good.

would the sending cloathing for thirty thousand American troops be considered as a crime?

That my charges are exorbitant I deny, and I pledge myself to prove, that the *whole* profit issuing to me from the public business for eighteen months, and for shipping supplies to the amount of near three millions two hundred thousand livres (of which only about 200,000 liv. were taken) does not exceed an average commission of one and a quarter per cent. Compare this, Gentlemen, with the common charges on American business at Nantes, and you will find that if five per cent, was to be charged only on the sale of three cargoes of tobacco, (and this is the usual charge) it would more than equal all the reward of *all my services*. In short, the being useful to my country, and the establishment of my reputation, have been considerations with me superior to any emolument, as is evinced by the moderate commission I charged *. Mr. Lee's assertion, that I have upwards of an hundred thousand
livres

* I never made a syllable of objection to his commission, but to a double commission to himself and Peltier; and desired to know what conditions on the subject had been settled.

livres public money in *my hands*, I have charity to think he does not believe to be a fact ; and surely the protest is an insult on you, who have approved of my draughts for the money which is *here said to be used for private purposes*. My character, Gentlemen, has been too long wounded by Mr. Lee, my accounts too long *unsettled*, and as it is my intention to depart soon to America, I humbly conjure you to fix on some method whereby my reputation may be vindicated from such unjust slanders, or my conduct publicly reprehended and condemned ; to this purpose, as the major part of the public debts under my management were contracted in and near Nantes, and as the persons live in this neighbourhood, I earnestly request you to order an examination of my accounts. There are here several gentlemen of character, residents of America, who are well versed in commercial transactions ; permit me to mention their names, Mr. Wm. Blake, Mr. Dan. Blake, Mr. Johnson, Mr. Tindal, Mr. Wharton, Mr. Ridley, Mr. Ross, Mr. Lloyd, and Mr. Ogilvie, choose if you please all these gentlemen to scrutinize my charges and vouchers, or refer them to any three of them, and I will recal every allowance for my

services, whether under the name of commission or otherwise; and for these, as well as for the whole of my accounts, I will abide by their decision. It is justice I want, justice is my due, and it is equally indifferent to me who are my judges, so that honesty and impartiality are the umpires.

I have the honour to be, &c.

(Signed)

JON. WILLIAMS."

Upon this decent, elegant, and elaborate epistle, which speaks for itself, I have only to remark, that if this gentleman really thought so precious a thing as his character wounded, and if he had the proofs in his possession that it was unjust, it was somewhat surprizing he did not immediately produce them, and stile what he calls an unjust slander in its birth. It was on the 11th of June, eight months before, that I had stated to him what was requisite to shew his accounts were just, viz. his orders, receipts, and bills of loading. Will any one believe, that a person conscious of honesty, and in possession of the proofs of it, would have hesitated a moment to furnish them, though it might have been some additional trouble. Mr. Bondfield and Mr. Schweighauser furnished

furnished the originals at the first word ; but Mr. Williams wrote us, that it was necessary for him to keep his against future demands. When to accommodate him in this, I wrote him, that authenticated copies would do ; his answer was, " I am not Mr. Lee's clerk." While his exquisite sensibility was smarting under the suspicion of having acted unfairly, he, in whose power only it was to shew the contrary, chose to continue me in "*the delight of glutting my soul with the carnage of his character.*"

He tells us first that his accounts were settled May 30, 1778, and in Jan. 1779, he complains that his accounts have been too long unsettled. If this proposition for settling them by the American gentlemen at Nantes, was sincere, how came it that Dr. Franklin did not adopt it, and yield to the pressing instances of his nephew, to save his character from farther carnage ? A Commissioner, whose duty it was, had undertaken to examine his accounts, he had stated the requisites to a settlement of them. Mr. Williams, instead of furnishing these, contrives to get more of the public money into his hands, gives the same blind account of its expenditure, and then appeals from that commissioner, under a pretence that
justice

justice had been refused or delayed. Had he complied with my demand, and with the vouchers before me, I had delayed a settlement and impeached his honesty, there would have been some colour for complaint and appeal. But as it was, he only is the cause of what he complains of, and his conduct served to confirm beyond a doubt, the suspicions arising from his accounts; nor did I ever decide upon the fairness or unfairness of his accounts, till his constant evasions of every step on my part to obtain the vouchers, convinced me there was something bad in the business. I then transmitted copies of his accounts to the committee, that Congress might judge of my objections, and order an impartial examination of them there, that justice might be done to the public, which I was satisfied would never be done here, while the uncle was Commissioner, and the nephew the defaulter.

When Mr. Williams states that what he has made during the whole time of his being employed, does not exceed the commissions upon the sale of three cargoes of tobacco; he does not seem aware of this question; How comes it, that you who had so little the means of becoming a merchant, even before these

these difficult times came on, that you was obliged, for bread, to become clerk to a sugar baker, should in a few months have acquired a capital sufficient to constitute you a merchant of such magnitude, that five Louis d'ors a day was not a sufficient compensation for absence from your business? Mr. Deane and this gentleman seem to agree in thinking, that nothing is more easy than imposing upon mankind as they please; and that the sudden and enormous growth of their fortunes, is no ground for suspecting their management of the public money.

When all the American gentlemen, except Mr. Johnston, were embarked, and in hourly expectation of sailing, I received from Dr. Franklin the following letter:

Passy, March 13, 1779.

“ Sir,

“ Finding by a note of yours on the back of Mr. William's accounts, dated Oct. 6, *but which I never saw till lately, by accident*, expressing that you are
 “ perfectly satisfied from his accounts, that Mr. Wil-
 “ liams has now, and has long had in his hands
 “ upwards of an hundred thousand livres belong-

ing to the public, which has not been employed "in the public use, &c." I have resolved to have these accounts *carefully* examined by impartial persons skilled in such business; and if you have any other objection to them than what appears in your note, or any other reasons than what appear upon the face of his accounts, for believing such a sum in Mr. Williams's hands, I beg you will furnish me with them, that I may communicate them to the examiners. I wish justice to be done, and that you had shewn your note either to Mr. Adams or myself, when you made it, the matter would not have been so long neglected. The money, if due, ought to be recovered immediately.

I have the honour, &c.

(Signed)

B. FRANKLIN.

P. S. The persons whom I have requested to examine the accounts are, the American merchants now at Nantes, with our deputed commercial agent Mr. Schweighauser."

To this letter I returned the following answer :

To

To the Hon. B. FRANKLIN, Esq. Minister Plenipotentiary, &c.

Paris, March 16, 1779.

“ Sir,

“ I had the honour of receiving yours of the 13th, touching my endorsement on your nephews accounts.

“ When Mr. Bondfield's accounts were sent to the Commissioners, I endorsed upon them the observations which occurred to me. I compared Mr. Schweighauser's accounts with the original vouchers and receipts which lay two months at Passy, and were then returned to him, as desired. In these accounts I found no errors *. Upon Mr. Montieu's giving in his, I objected his not having produced a receipt from our agent, to vouch the delivery of the articles for which he demanded payment. It was agreed that this was proper, and he promised to produce such a receipt. What he sometime afterwards sent us as such, was dated a year after the alledged delivery of the goods, was in the form of

* I had before objected to the charge of five per cent commission: he had been written to accordingly, and in answer gave his reasons to justify it.

of a letter from Mr. Williams *, and conceived in such terms, as could neither satisfy us that the things as charged had been received, nor render your nephew responsible for them to the public. I gave in my objection to this as unsatisfactory.

Upon examining the first accounts given in by your nephew, which was six months after the goods had been shipped, I found a darkness and inaccuracy which I had never seen in accounts before, and that they were not accompanied with either
bills

* A. M. M. MONTIEU, *Paris.*

Passy, le 23d Dec. 1773.

“ Monsieur,

“ J’ai reçu de M. Peltier du doyer cent quatorze balles contenant habits de soldat, plusieurs futails de cuivre, & barriques de pierre à fusil. Etant éloigné de mon Bureau je ne puis, pas vous donner les marques & numéros de ces marchandises, mais vous les trouverez dans les factures que j’ai eu l’honneur de remettre à ces Messieurs.

(Signed)

JON. WILLIAMS.

Mr. Montieu demanded payment for so many uniforms of royal blue cloth, so many pounds of rose copper, and of block tin. Mr. Williams’s receipt says, so many bales containing soldiers uniforms, and several casks of copper; without either the quantity or quality, or the time he received them, or on whose account.

bills of loading, or receipts to elucidate and support them. I stated my objections in writing, the answers I received neither informed nor satisfied me. It appears that you yourself, Sir, was convinced that those accounts, as they stood, could not be passed, because, though you agreed to pay him the ballance he demanded, you stated in the order, that this payment was not to be considered as *any approbation of his accounts*, nor prevent Mr. Williams from being accountable to Congress or the Commissioners for the expenditure of the sums entrusted to him.

His accounts, from the first livre he received to the last, which, as far as I can trust my memory, exceed a million, and the time is more than two years, remain in the same unsettled state.

When your nephew sent us his second account, which was in September or October last, I examined it also, and reported my opinion endorsed upon the account itself, on purpose that you might not examine it without seeing my observations. The account so endorsed I returned immediately to Passy. It is therefore singularly unfortunate that you should not have seen this endorsement in the course of near six months, *till lately, and by accident*, as you inform

L

me,

me, and that I should have incurred some degree of your censure, as not having *shewn it to you when made, and thereby occasioning the matter to be so long neglected.*

In all this, Sir, I acted equally to all, from the irresistible motives of duty to the public as a Commissioner; and have been unhappy enough to have seen it taken up personally, and subject me to the greatest ill-will and abuse.

You must therefore excuse me, Sir, now that it is no longer my indispensable duty, from concerning myself with a business which is in much abler hands. If Congress should call upon me for farther reasons than those I have already given, it will then be my duty to act, and I will obey."

I might have upbraided Dr. Franklin with denying that he had seen this endorsement, for the purpose of censuring me, though it had been some time in his own possession, and by his nephew's testimony had been transmitted to him, and by him remitted back to his uncle, in the letter of which he afterwards sent me a copy. But I blushed for him on
this

this occasion, as I have done on many others of a similar nature.

If he thought his nephews accounts were fair and sufficient, why did he stipulate against any approbation of them being implied, from his paying him what he demanded? If he did not think them fair or approveable, why did he let him have the balance first, and talk of settling the accounts afterwards? Is this the way Dr. Franklin manages his own money? Did he ever transmit a copy of this order to Congress, that they might see the wise reservation made, and the unsettled state of this account? For what purpose then could so strange a proceeding be calculated, but for a cover to the putting this money in his nephew's pocket, and which, as to the public, should be without effect?

After what I have stated, it is unnecessary to say that the accounts remain as they were. To save appearances a letter was written by Dr. Franklin to the gentlemen mentioned in Mr. Williams's letter, after they were embarked at Paimbeuf, and were under sailing orders. If Dr. Franklin really wished and intended these accounts should be examined by capable and impartial persons, why did he not propose

pose it when it was practicable? Why not before he gave the order? Why not in January, when all the gentlemen were at Nantes, and when his nephew solicited it with such apparent earnestness and anxiety? And if this was more than appearance in his nephew, why did he delay communicating this demand to me, 'till he knew that the gentlemen were summoned on board?

These arts employed about settling the accounts, are of the same kind with those used to get the money into his hands. Continual solicitations for more money or more credit; with promises that his accounts would be ready at our call. Thus in his letter of Nov. 8, 1777. he says, "I have mentioned before, that the sums you appropriated to me, will not encompass all my engagements; for the magazine now requires very heavy weekly payments (about forty Louis d'ors every Saturday night) and the fitting the *Lion* as a frigate takes up a great deal of money. I shall however take care to give you proper notice in time, and *my accounts will be ready to be laid before you whenever required.*" Again in his letter of Feb. 28, 1778, he renews his demands and promises thus,

"I find

" I find my credit with Mr. Grand is again full, I
 " must therefore beg you to authorize a continuation
 " of my bills, till I can furnish you *with all my ac-*
 " *counts, which I shall now soon do.*" Yet it was
 not till after repeated letters on our part for four
 months, that we could obtain such accounts as even
 his friends will not undertake to settle or approve.

Mr. Deane too, who received these letters, and
 knew that the promises were made and not per-
 formed, was not ashamed to impose the following
 assertion on Congress, in his letter of the 12th of
 October, 1778,---" Monthly accounts were not to
 " be expected in reason from a man in such a situa-
 " tion ; it could not be done if promised, and Mr.
 " Williams is a gentleman of too much *probity, as*
 " *well as knowledge in business, to promise what he*
 " *cannot perform.*"

Mr. Williams has said just as much in praise
 of Mr. Deane, and certainly with just as much rea-
 son.

Enough, I presume, has been now stated, to shew
 these transactions in their true light. But they were
 all professedly for the public good. They have al-
 ways appeared to think, that professions were a co-

ver for any practices. Mr. Williams professed an utter dislike to all disputes, and a determination to avoid them. Yet Mr. Williams was the person that constantly began them. Whether Mr. Morris, my brother, or Mr. Schweighauser attempted to act in the commercial agency, Mr. Williams was the man who disputed their power; and when Mr. Deane's authority was not a sufficient pretence, that of Mr. Ross was called in. When the plan was to cover his interference, Mr. Morris's incapacity was the plea; when the object was to get a pretext for interfering with my brother, Mr. Morris was perfectly capable to devolve the commercial agency upon Mr. Williams, without the knowledge or concurrence of his colleague.

It is proper to add one word, from their own account, of this magazine of arms, which has been such a fruitful source of charges and commissions, and such a sink of the public money.

Mr. Williams writes thus of it, in his letters of Feb. 25, March 1, and 4, and April 1. "It seems that some time ago, M. Peltier proposed to M. Montieu to buy all these arms in partnership, and have them refitted for the Guinea trade; the scheme appeared

peared a good one, and they accordingly endeavoured to procure workmen, but not being able at that time to succeed, the bargain was not finished. The price that they expected them at was about three livres. In conversation with Mr. Peltier some time ago, he observed, that he supposed the value of them to be about five or six livres. This was before I knew you had any intention of buying them. Upon the whole, I apprehend the value of them to lay between three and six livres; many of them are not worth so much as three, and some of them are worth six. It appears to me, that many are not fit for our purpose; but by these the Indian trade may be supplied, and a great many good ones may be left for the public use. The rampart fusils need have no other alteration than being well cleaned; those for the infantry must be remounted according as they are marked in the list, either here or in America, and the whole should be proved before they are put into the hands of the soldiery. As to the expence of refitting, I have examined Mr. Peltier's books, and find the estimate * I sent is rather higher than what he has paid; which was purpose-

ly

* If this estimate were produced it would check the charges.

ly done, because mistakes on that side are easiest rectified. I am assured that there are a full number of bayonets, locks, &c. rather more than leis *. There must be many new ramrods, which will cost about twelve shs each at the manufactory."

It appears that Dr. Franklin, Mr. Deane, and Mr. Williams were fully apprized that the arms they were buying were old and refuse, such as were fit only for the African trade, which every one knows are, even when most speciously furnished up, a most wicked imposition. These were the arms on which they were laying out the public money, and for the sake of a job, they were putting these treacherous weapons into the hands of their countrymen, who were fighting for all that was dear and sacred among men. Instead of purchasing immediately new and
good

* As Mr. Williams does not specify in his accounts for what articles the large sums were paid to Rasquin, it is not easy to check him; but after saying, as above, that there were more gunlocks originally than sufficient, he tells us in a note to his account, that "the articles necessary to carry on the reparation, such as palmwoods, all the pieces necessary to compose a lock, &c. &c. were furnished from Charville." It is not easy to conceive that it was necessary to buy all the pieces composing a lock, when there were already more locks than enough.

good arms for the most pressing and important of all possible services, they chose to employ the public money in a speculation for the Indian trade of old rejected arms, to be furnished up at a great expence of time and money, in a moment big with every danger, and urging for immediate arms.

To close the consideration of these most unbecoming transactions, I beg a moment's attention to the following letter, from which it will clearly appear who was the patron and prompter of the whole.

A Monsieur, Monsieur WILLIAMS, Negt. a Nantes.

Passy, Dec. 22d, 1777.

“ *Dear Nephew,*

“ I received yours of the 16th, and am concerned as well as you at the difference between Messrs. Deane and Lee, but cannot help it. You need however be under no concern as to your orders being only from Mr. Deane. As you have always acted uprightly and ably for the public service, *you would be justified if you had no orders at all.* But as he generally consulted with me, and had my approbation in the orders he gave, and I know they were for the best, and aimed at the public good, I hereby certify you

N

that

that I approve and join in those you received from him, and desire you to proceed in the execution of the same.

I am ever, your affectionate uncle,

(Signed) B. FRANKLIN."

To prove the sincerity of his concern for this difference, he encourages a perseverance in the cause of it, which was the doing the public business without the knowledge or concurrence of one of the commissioners. To encourage disorder and disobedience he recommends a rule of action in subordinate servants of the public, than which nothing can be imagined more licentious, or more effectually calculated to destroy all decency, order and authority; and that no doubt might remain of an established dissention among the Commissioners, he takes care to inform his nephew, that one of them (whatever Congress might think or order) was not consulted, nor deemed necessary to be consulted with by his colleagues.

Neither can the disorder of our affairs here be surprising, nor the source of it be doubted, when
such

such letters and such doctrines, proceeded from a man who from his age and character, and his commission, ought to have been most exemplary in cultivating unanimity, order, and obedience.

ARTHUR LEE.



Wylie

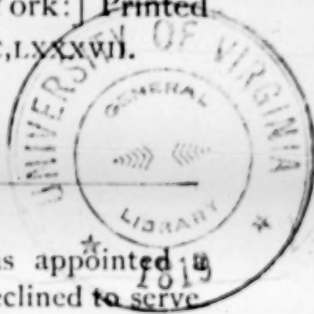
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Lee, Richard Henry.

Observation / leading to a fair examination / of the /
system of government, / proposed by the late / Con-
vention; / and to several essential and neces- / sary alter-
ations in it. / In a number of / Letters / from the /
Federal Farmer to the Republican. [New York:] Printed
[by Thomas Greenleaf] in the year M,DCC,LXXXVII.

8vo. pp. 40.



Written by Richard Harry Lee, who was appointed ¹⁸¹⁹ member of the Philadelphia Convention, but declined to serve. He was one of the foremost in opposition to the Constitution, both in the Continental Congress and before the people, and was the subject of numerous attacks in the press.

The "Letters of the Federal Farmer" was one of the most popular of arguments against the new government, "four editions (and several thousands) of the pamphlet . . . being in a few months printed and sold in the several states," which induced Lee to write "an additional number of Letters," but it is largely repetitious of the first, and I have therefore omitted its republication. A short review will be found in the American Magazine for May, 1788, and an elaborate reply by Timothy Pickering in *Pickering's Life of Pickering*, II, 352.

P. L. F.

LETTER I.

OCTOBER 8th, 1787.

DEAR SIR,

MY letters to you last winter, on the subject of a well balanced national government for the United States, were the result of a free enquiry; when I passed from that subject to enquiries relative to our commerce, revenues, past administration, &c. I anticipated the anxieties I feel, on carefully examining the plan of government proposed by the convention. It appears to be a plan retaining some federal features; but to be the first important step, and to aim strongly at one consolidated government of the United States. It leaves the powers of government, and the representation of the people, so unnaturally divided between the general and state governments, that the operations of our system must be very uncertain. My uniform federal attachments, and the interest I have in the protection of property, and a steady execution of the laws, will convince you, that, if I am under any bias at all, it is in favor of any general system which shall promise those advantages. The instability of our laws increases my wishes for firm and steady government; but then, I can consent to no government, which, in my opinion, is not calculated equally to preserve the rights of all orders of men in the community. My object has been to join with those who have endeavoured to supply the defects in the forms of our governments by a steady and proper administration of them. Though I have long apprehended that fraudulent debtors, and embarrassed men, on the one hand, and men, on the other, unfriendly to republican equality, would produce an uneasiness among the people, and prepare the way, not for cool and deliberate reforms in the governments, but for changes calculated to promote the interests of particular orders of men. Acquit me, sir, of any agency in the formation of the new system; I shall be satisfied

with seeing, if it shall be adopted with a prudent administration. Indeed I am so much convinced of the truth of Pope's maxim, that "That which is best [4] administered is best," that I am much inclined to subscribe to it from experience. I am not disposed to unreasonably contend about forms. I know our situation is critical, and it behoves us to make the best of it. A federal government of some sort is necessary. We have suffered the present to languish; and whether the confederation was capable or not originally of answering any valuable purposes, it is now but of little importance. I will pass by the men, and states, who have been particularly instrumental in preparing the way for a change, and perhaps, for governments not very favourable to the people at large. A constitution is now presented which we may reject, or which we may accept with or without amendments, and to which point we ought to direct our exertions is the question. To determine this question with propriety; we must attentively examine the system itself, and the probable consequences of either step. This I shall endeavour to do, so far as I am able, with candor and fairness; and leave you to decide upon the propriety of my opinions, the weight of my reasons, and how far my conclusions are well drawn. Whatever may be the conduct of others, on the present occasion, I do not mean hastily and positively to decide on the merits of the constitution proposed. I shall be open to conviction and always disposed to adopt that which, all things considered, shall appear to me to be most for the happiness of the community. It must be granted, that if men hastily and blindly adopt a system of government, they will as hastily and as blindly be led to alter or abolish it; and changes must ensue, one after another, till the peaceable and better part of the community will grow weary with changes, tumults and disorders, and be disposed to accept any government however despotic, that shall promise stability and firmness.

The first principal question that occurs, is, Whether, considering our situation, we ought to precipitate the adoption of the proposed constitution? If we remain cool and temperate, we are in no immediate danger of any commotions; we are in

a state of perfect peace, and in no danger of invasions; the state governments are in the full exercise of their powers; and our governments answer all present exigencies, except the regulation of trade, securing credit, in some cases, and providing for the interest, in some instances, of the public debts; and whether we adopt a change three or nine months hence, can make but little odds with the private circumstances of individuals; their happiness and prosperity, after all, depend principally upon their own exertions. We are hardly recovered from a long and distressing war: The farmers, fishmen, &c. have not fully repaired the waste made by it. Industry [5] and frugality are again assuming their proper station. Private debts are lessened, and public debts incurred by the war have been, by various ways, diminished; and the public lands have now become a productive source for diminishing them much more. I know uneasy men, who with very much to precipitate, do not admit all these facts; but they are facts well known to all men who are thoroughly informed in the affairs of this country. It must, however, be admitted, that our federal system is defective, and that some of the state governments are not well administered; but, then, we impute to the defects in our governments many evils and embarrassments which are most clearly the result of the late war. We must allow men to conduct on the present occasion, as on all similar one's. They will urge a thousand pretences to answer their purposes on both sides. When we want a man to change his condition, we describe it as wretched, miserable, and despised; and draw a pleasing picture of that which we would have him assume. And when we wish the contrary, we reverse our descriptions. Whenever a clamor is raised, and idle men get to work, it is highly necessary to examine facts carefully, and without unreasonably suspecting men of falshood, to examine, and enquire attentively, under what impressions they act. It is too often the case in political concerns that men state facts not as they are, but as they wish them to be; and almost every man, by calling to mind past scenes, will find this to be true.

Nothing but the passions of ambitious, impatient, or disorderly men, I conceive, will plunge us into commotions, if

time should be taken fully to examine and consider the system proposed. Men who feel easy in their circumstances, and such as are not sanguine in their expectations relative to the consequences of the proposed change, will remain quiet under the existing governments. Many commercial and monied men, who are uneasy, not without just cause, ought to be respected; and by no means, unreasonably disappointed in their expectations and hopes; but as to those who expect employments under the new constitution; as to those weak and ardent men who always expect to be gainers by revolutions, and whose lot it generally is to get out of one difficulty into another, they are very little to be regarded; and as to those who designedly avail themselves of this weakness and ardor, they are to be despised. It is natural for men, who wish to hasten the adoption of a measure, to tell us, now is the crisis—now is the critical moment which must be seized or all will be lost; and to shut the door against free enquiry, whenever conscious the thing presented has defects in it, which time and investigation will probably discover. This has been the custom of tyrants, [6] and their dependants in all ages. If it is true, what has been so often said, that the people of this country cannot change their condition for the worse, I presume it still behoves them to endeavour deliberately to change it for the better. The fickle and ardent, in any community are the proper tools for establishing despotic government. But it is deliberate and thinking men, who must establish and secure governments on free principles. Before they decide on the plan proposed, they will enquire whether it will probably be a blessing or a curse to this people.

The present moment discovers a new face in our affairs. Our object has been all along, to reform our federal system, and to strengthen our governments—to establish peace, order and justice in the community—but a new object now presents. The plan of government now proposed is evidently calculated totally to change, in time, our condition as a people. Instead of being thirteen republics, under a federal head, it is clearly designed to make us one consolidated government. Of this, I think, I shall fully convince you, in my following letters on

this subject. This consolidation of the states has been the object of several men in this country for some time past. Whether such a change can ever be effected, in any manner ; whether it can be effected without convulsions and civil wars ; whether such a change will not totally destroy the liberties of this country—time only can determine.

To have a just idea of the government before us, and to shew that a consolidated one is the object in view, it is necessary not only to examine the plan, but also its history, and the politics of its particular friends.

The confederation was formed when great confidence was placed in the voluntary exertions of individuals, and of the respective states ; and the framers of it, to guard against usurpation, so limited, and checked the powers, that, in many respects, they are inadequate to the exigencies of the union. We find, therefore, members of congress urging alterations in the federal system almost as soon as it was adopted. It was early proposed to vest congress with powers to levy an impost, to regulate trade, &c. but such was known to be the caution of the states in parting with power, that the vestment even of these, was proposed to be under several checks and limitations. During the war, the general confusion, and the introduction of paper money, infused in the minds of people vague ideas respecting government and credit. We expected too much from the return of peace, and of course we have been disappointed. Our governments have been new and unsettled ; and several legislatures, by making tender, suspension, and paper money laws, [7] have given just cause of uneasiness to creditors. By these and other causes, several orders of men in the community have been prepared, by degrees, for a change of government ; and this very abuse of power in the legislatures, which in some cases has been charged upon the democratic part of the community, has furnished aristocratical men with those very weapons, and those very means, with which, in great measure, they are rapidly effecting their favourite object. And should an oppressive government be the consequence of the proposed change, prosperity may reproach not only a few overbearing, unprincipled

men, but those parties in the states which have misused their powers.

The conduct of several legislatures, touching paper money, and tender laws, has prepared many honest men for changes in government, which otherwise they would not have thought of—when by the evils, on the one hand, and by the secret instigations of artful men, on the other, the minds of men were become sufficiently uneasy, a bold step was taken, which is usually followed by a revolution, or a civil war. A general convention for mere commercial purposes was moved for—the authors of this measure saw that the people's attention was turned solely to the amendment of the federal system; and that, had the idea of a total change been started, probably no state would have appointed members to the convention. The idea of destroying ultimately, the state government, and forming one consolidated system, could not have been admitted—a convention, therefore, merely for vesting in congress power to regulate trade was proposed. This was pleasing to the commercial towns; and the landed people had little or no concern about it. September, 1786, a few men from the middle states met at Annapolis, and hastily proposed a convention to be held in May, 1787, for the purpose, generally, of amending the confederation—this was done before the delegates of Massachusetts, and of the other states arrived—still not a word was said about destroying the old constitution, and making a new one—The states still unsuspecting, and not aware that they were passing the Rubicon, appointed members to the new convention, for the sole and express purpose of revising and amending the confederation—and, probably, not one man in ten thousand in the United States, till within these ten or twelve days, had an idea that the old ship was to be destroyed, and he put to the alternative of embarking in the new ship presented, or of being left in danger of sinking—The States, I believe, universally supposed the convention would report alterations in the confederation, which would pass an examination in congress, and after being agreed to there, would be confirmed by all the legislatures, [8] or be rejected. Virginia made a very respectable appointment, and placed at

the head of it the first man in America. In this appointment there was a mixture of political characters; but Pennsylvania appointed principally those men who are esteemed aristocratical. Here the favourite moment for changing the government was evidently discerned by a few men, who seized it with address. Ten other states appointed, and tho' they chose men principally connected with commerce and the judicial department yet they appointed many good republican characters—had they all attended we should now see, I am persuaded, a better system presented. The non-attendance of eight or nine men, who were appointed members of the convention, I shall ever consider as a very unfortunate event to the United States.—Had they attended, I am pretty clear that the result of the convention would not have had that strong tendency to aristocracy now discernable in every part of the plan. There would not have been so great an accumulation of powers, especially as to the internal police of this country in a few hands as the constitution reported proposes to vest in them—the young visionary men, and the consolidating aristocracy, would have been more restrained than they have been. Eleven states met in the convention, and after four months close attention presented the new constitution, to be adopted or rejected by the people. The uneasy and fickle part of the community may be prepared to receive any form of government; but I presume the enlightened and substantial part will give any constitution presented for their adoption a candid and thorough examination; and silence those designing or empty men, who weakly and rashly attempt to precipitate the adoption of a system of so much importance—We shall view the convention with proper respect—and, at the same time, that we reflect there were men of abilities and integrity in it, we must recollect how disproportionately the democratic and aristocratic parts of the community were represented—Perhaps the judicious friends and opposers of the new constitution will agree, that it is best to let it rely solely on its own merits, or be condemned for its own defects.

In the first place, I shall premise, that the plan proposed is a plan of accommodation—and that it is in this way only, and

by giving up a part of our opinions, that we can ever expect to obtain a government founded in freedom and compact. This circumstance candid men will always keep in view, in the discussion of this subject.

The plan proposed appears to be partly federal, but principally however, calculated ultimately to make the states one consolidated government.

The first interesting question, therefore suggested, is, how [9] far the states can be consolidated into one entire government on free principles. In considering this question extensive objects are to be taken into view, and important changes in the forms of government to be carefully attended to in all their consequences. The happiness of the people at large must be the great object with every honest statesman, and he will direct every movement to this point. If we are so situated as a people, as not to be able to enjoy equal happiness and advantages under one government, the consolidation of the states cannot be admitted.

There are three different forms of free government under which the United States may exist as one nation; and now is, perhaps, the time to determine to which we will direct our views. 1. Distinct republics connected under a federal head. In this case the respective state governments must be the principal guardians of the peoples rights, and exclusively regulate their internal police; in them must rest the balance of government. The congress of the states, or federal head, must consist of delegates amenable to, and removable by the respective states: This congress must have general directing powers; powers to require men and monies of the states; to make treaties; peace and war; to direct the operations of armies, &c. Under this federal modification of government, the powers of congress would be rather advisory or recommendatory than coercive. 2. We may do away the federal state governments, and form or consolidate all the states into one entire government, with one executive, one judiciary, and one legislature, consisting of senators and representatives collected from all parts of the union: In this case there would be a compleat consolidation of the states. 3. We may con-

soldate the states as to certain national objects, and leave them severally distinct independent republics, as to internal police generally. Let the general government consist of an executive, a judiciary, and balanced legislature, and its powers extend exclusively to all foreign concerns, causes arising on the seas to commerce, imports, armies, navies, Indian affairs, peace and war, and to a few internal concerns of the community; to the coin, post-offices, weights and measures, a general plan for the militia, to naturalization, *and, perhaps to bankruptcies*, leaving the internal police of the community, in other respects, exclusively to the state governments; as the administration of justice in all causes arising internally, the laying and collecting of internal taxes, and the forming of the militia according to a general plan prescribed. In this case there would be a compleat consolidation, *quoad* certain objects only.

Touching the first, or federal plan, I do not think much can be said in its favor: The sovereignty of the nation, without [10] coercive and efficient powers to collect the strength of it, cannot always be depended on to answer the purposes of government; and in a congress of representatives of foreign states, there must necessarily be an unreasonable mixture of powers in the same hands.

As to the second, or compleat consolidating plan, it deserves to be carefully considered at this time by every American: If it be impracticable, it is a fatal error to model our governments, directing our views ultimately to it.

The third plan, or partial consolidation, is, in my opinion, the only one that can secure the freedom and happiness of this people. I once had some general ideas that the second plan was practicable, but from long attention, and the proceedings of the convention, I am fully satisfied, that this third plan is the only one we can with safety and propriety proceed upon. Making this the standard to point out, with candor and fairness, the parts of the new constitution which appear to be improper, is my object. The convention appears to have proposed the partial consolidation evidently with a view to collect all powers ultimately, in the United States into one entire government; and from its views in this respect, and from the

tenacity of the small states to have an equal vote in the senate, probably originated the greatest defects in the proposed plan.

Independent of the opinions of many great authors, that a free elective government cannot be extended over large territories, a few reflections must evince, that one government and general legislation alone never can extend equal benefits to all parts of the United States: Different laws, customs, and opinions exist in the different states, which by a uniform system of laws would be unreasonably invaded. The United States contain about a million of square miles, and in half a century will, probably, contain ten millions of people; and from the center to the extremes is about 800 miles.

Before we do away the state governments or adopt measures that will tend to abolish them, and to consolidate the states into one entire government several principles should be considered and facts ascertained:—These, and my examination into the essential parts of the proposed plan, I shall pursue in my next.

Your's, &c.

THE FEDERAL FARMER.

[11]

LETTER II.

OCTOBER 9, 1787.

DEAR SIR,

The essential parts of a free and good government are a full and equal representation of the people in the legislature, and the jury trial of the vicinage in the administration of justice—a full and equal representation, is that which possesses the same interests, feelings, opinions, and views the people themselves would were they all assembled—a fair representation, therefore, should be so regulated, that every order of men in the community, according to the common course of elections, can have a share in it—in order to allow professional men, merchants, traders, farmers, mechanics, &c. to bring a just proportion of their best informed men respectively into

the legislature, the representation must be considerably numerous—We have about 200 state senators in the United States, and a less number than that of federal representatives cannot, clearly, be a full representation of this people, in the affairs of internal taxation and police, were there but one legislature for the whole union. The representation cannot be equal, or the situation of the people proper for one government only—if the extreme parts of the society cannot be represented as fully as the central—It is apparently impracticable that this should be the case in this extensive country—it would be impossible to collect a representation of the parts of the country five, six, and seven hundred miles from the seat of government.

Under one general government alone, there could be but one judiciary, one supreme and a proper number of inferior courts. I think it would be totally impracticable in this case to preserve a due administration of justice, and the real benefits of the jury trial of the vicinage—there are now supreme courts in each state in the union, and a great number of county and other courts subordinate to each supreme court—most of these supreme and inferior courts are itinerant, and hold their sessions in different parts every year of their respective states, counties and districts—with all these moving courts, our citizens, from the vast extent of the country, must travel very considerable distances from home to find the place where justice is administered. I am not for bringing justice so near to individuals as to afford them any temptation to engage in law suits; though I think it one of the greatest benefits in a good government, that each citizen should find a court of justice within a reasonable distance, perhaps, within a day's travel of his [12] home; so that, without great inconveniences and enormous expense, he may have the advantages of his witnesses and jury—it would be impracticable to derive these advantages from one judiciary—the one supreme court at most could only set in the centre of the union, and move once a year into the centre of the eastern and southern extremes of it—and, in this case, each citizen, on an average, would travel 150 or 200 miles to find this court—that, however, inferior courts might be properly placed in the different counties, and

districts of the union, the appellate jurisdiction would be intolerable and expensive.

If it were possible to consolidate the states, and preserve the features of a free government, still it is evident that the middle states, the parts of the union, about the seat of government, would enjoy great advantages, while the remote states would experience the many inconveniences of remote provinces. Wealth, offices, and the benefits of government would collect in the centre: and the extreme states; and their principal towns, become much less important.

There are other considerations which tend to prove that the idea of one consolidated whole, on free principles, is ill-founded—the laws of a free government rest on the confidence of the people, and operate gently—and never can extend the influence very far—if they are executed on free principles, about the centre, where the benefits of the government induce the people to support it voluntarily; yet they must be executed on the principles of fear and force in the extremes—This has been the case with every extensive republic of which we have any accurate account.

There are certain unalienable and fundamental rights, which in forming the social compact, ought to be explicitly ascertained and fixed—a free and enlightened people, in forming this compact, will not resign all their rights to those who govern, and they will fix limits to their legislators and rulers, which will soon be plainly seen by those who are governed, as well as by those who govern: and the latter will know they cannot be passed unperceived by the former, and without giving a general alarm—These rights should be made the basis of every constitution; and if a people be so situated, or have such different opinions that they cannot agree in ascertaining and fixing them, it is a very strong argument against their attempting to form one entire society, to live under one system of laws only.—I confess, I never thought the people of these states differed essentially in these respects; they having derived all these rights from one common source, the British systems; and having in the formation of their state constitutions, discovered that their ideas [13] relative to these rights

are very similar. However, it is now said that the states differ so essentially in these respects, and even in the important article of the trial by jury, that when assembled in convention, they can agree to no words by which to establish that trial, or by which to ascertain and establish many other of these rights, as fundamental articles in the social compact. If so, we proceed to consolidate the states on no solid basis whatever.

But I do not pay much regard to the reasons given for not bottoming the new constitution on a better bill of rights. I still believe a complete federal bill of rights to be very practicable. Nevertheless I acknowledge the proceedings of the convention furnish my mind with many new and strong reasons, against a complete consolidation of the states. They tend to convince me, that it cannot be carried with propriety very far—that the convention have gone much farther in one respect than they found it practicable to go in another; that is, they propose to lodge in the general government very extensive powers—*powers* nearly, if not altogether, complete and unlimited, over the purse and the sword. But, in its organization, they furnish the strongest proof that the proper limbs, or parts of a government, to support and execute those powers on proper principles (or in which they can be safely lodged) cannot be formed. These powers must be lodged somewhere in every society; but then they should be lodged where the strength and guardians of the people are collected. They can be wielded, or safely used, in a free country only by an able executive and judiciary, a respectable senate, and a secure, full, and equal representation of the people. I think the principles I have premised or brought into view, are well founded—I think they will not be denied by any fair reasoner. It is in connection with these, and other solid principles, we are to examine the constitution. It is not a few democratic phrases, or a few well formed features, that will prove its merits; or a few small omissions that will produce its rejection among men of sense; they will enquire what are the essential powers in a community, and what are nominal ones; where and how the essential powers shall be lodged to secure government, and to secure true liberty.

In examining the proposed constitution carefully, we must clearly perceive an unnatural separation of these powers from the substantial representation of the people. The state government will exist, with all their governors, senators, representatives, officers and expences; in these will be nineteen twentieths of the representatives of the people; they will have a near connection, and their members an immediate intercourse with the people; and the probability is, that the state governments will possess the [14] confidence of the people, and be considered generally as their immediate guardians.

The general government will consist of a new species of executive, a small senate, and a very small house of representatives. As many citizens will be more than three hundred miles from the seat of this government as will be nearer to it, its judges and officers cannot be very numerous, without making our governments very expensive. Thus will stand the state and the general governments, should the constitution be adopted without any alterations in their organization; but as to powers, the general government will possess all essential ones, at least on paper, and those of the states a mere shadow of power. And therefore, unless the people shall make some great exertions to restore to the state governments their powers in matters of internal police; as the powers to lay and collect, exclusively, internal taxes, to govern the militia, and to hold the decisions of their own judicial courts upon their own laws final, the balance cannot possibly continue long; but the state governments must be annihilated, or continue to exist for no purpose.

It is however to be observed, that many of the essential powers given the national government are not exclusively given; and the general government may have prudence enough to forbear the exercise of those which may still be exercised by the respective states. But this cannot justify the impropriety of giving powers, the exercise of which prudent men will not attempt, and imprudent men will, or probably can, exercise only in a manner destructive of free government. The general government, organized as it is, may be adequate to many valuable objects, and be able to carry its laws into

execution on proper principles in several cases ; but I think its warmest friends will not contend, that it can carry all the powers proposed to be lodged in it into effect, without calling to its aid a military force, which must very soon destroy all elective governments in the country, produce anarchy, or establish despotism. Though we cannot have now a complete idea of what will be the operations of the proposed system, we may, allowing things to have their common course, have a very tolerable one. The powers lodged in the general government, if exercised by it, must intimately effect the internal police of the states, as well as external concerns ; and there is no reason to expect the numerous state governments, and their connections, will be very friendly to the execution of federal laws in those internal affairs, which hitherto have been under their own immediate management. There is more reason to believe, that the general government, far removed from the people, and none of its members elected oftener than once in two years, will be forgot [15] or neglected, and its laws in many cases disregarded, unless a multitude of officers and military force be continually kept in view, and employed to enforce the execution of the laws, and to make the government feared and respected. No position can be truer than this. That in this country either neglected laws, or a military execution of them, must lead to a revolution, and to the destruction of freedom. Neglected laws must first lead to anarchy and confusion ; and a military execution of laws is only a shorter way to the same point—despotic government.

Your's, &c.

THE FEDERAL FARMER.

LETTER III.

OCTOBER 10th, 1787.

DEAR SIR,

The great object of a free people must be so to form their government and laws, and so to administer them, as to create a confidence in, and respect for the laws; and thereby induce the sensible and virtuous part of the community to declare in favor of the laws, and to support them without an expensive military force. I wish, though I confess I have not much hope, that this may be the case with the laws of congress under the new constitution. I am fully convinced that we must organize the national government on different principals, and make the parts of it more efficient, and secure in it more effectually the different interests in the community; or else leave in the state governments some powers proposed to be lodged in it—at least till such an organization shall be found to be practicable. Not sanguine in my expectations of a good federal administration, and satisfied, as I am, of the impracticability of consolidating the states, and at the same time of preserving the rights of the people at large, I believe we ought still to leave some of those powers in the state governments, in which the people, in fact, will still be represented—to define some other powers proposed to be vested in the general government, more carefully, and to establish a few principles to secure a proper exercise of the powers given it. It is not my object to multiply objections, or to contend about inconsiderable powers or amendments. I wish the system adopted with a few alterations; but those, in my mind, are essential ones; if adopted without, [16] every good citizen will acquiesce, though I shall consider the duration of our governments, and the liberties of this people, very much dependant on the administration of the general government. A wise and honest administration, may make the people happy under any government; but necessity only can justify even our leaving open avenues to the abuse of power, by wicked, unthinking, or ambitious men, I will examine, first, the organization of the proposed government, in order to judge; 2d, with propriety,

what powers are improperly, at least prematurely lodged in it. I shall examine, 3d, the undefined powers; and 4th, those powers, the exercise of which is not secured on safe and proper ground.

First. As to the organization—the house of representatives, the democratic branch, as it is called, is to consist of 65 members: that is, about one representative for fifty thousand inhabitants, to be chosen biennially—the federal legislature may increase this number to one for each thirty thousand inhabitants, abating fractional numbers in each state.—Thirty-three representatives will make a quorum for doing business, and a majority of those present determine the sense of the house.—I have no idea that the interests, feelings, and opinions of three or four millions of people, especially touching internal taxation, can be collected in such a house.—In the nature of things, nine times in ten, men of the elevated classes in the community only can be chosen—Connecticut, for instance, will have five representatives—not one man in a hundred of those who form the democratic branch in the state legislature, will, on a fair computation, be one of the five.—The people of this country, in one sense, may all be democratic; but if we make the proper distinction between the few men of wealth and abilities, and consider them, as we ought, as the natural aristocracy of the country, and the great body of the people, the middle and lower classes, as the democracy, this federal representative branch will have but very little democracy in it, even this small representation is not secured on proper principles.—The branches of the legislature are essential parts of the fundamental compact, and ought to be so fixed by the people, that the legislature cannot alter itself by modifying the elections of its own members. This, by a part of Art. 1, Sect. 4, the general legislature may do, it may evidently so regulate elections as to secure the choice of any particular description of men.—It may make the whole state one district—make the capital, or any places in the state, the place or places of election—it may declare that the five men (or whatever the number may be the state may chuse) who shall have the most votes shall be considered as chosen.

—In this [17] case it is easy to perceive how the people who live scattered in the inland towns will bestow their votes on different men—and how a few men in a city, in any order or profession, may unite and place any five men they please highest among those that may be voted for—and all this may be done constitutionally, and by those silent operations, which are not immediately perceived by the people in general.

—I know it is urged, that the general legislature will be disposed to regulate elections on fair and just principles :—This may be true—good men will generally govern well with almost any constitution : but why in laying the foundation of the social system, need we unnecessarily leave a door open to improper regulations?—This is a very general and unguarded clause, and many evils may flow from that part which authorises the congress to regulate elections.—Were it omitted, the regulations of elections would be solely in the respective states, where the people are substantially represented ; and where the elections ought to be regulated, otherwise to secure a representation from all parts of the community, in making the constitutions, we ought to provide for dividing each state into a proper number of districts, and for confining the electors in each district to the choice of some men, who shall have a permanent interest and residence in it ; and also for this essential object, that the representative elected shall have a majority of the votes of those electors who shall attend and give their votes.

In considering the practicability of having a full and equal representation of the people from all parts of the union, not only distances and different opinions, customs and views, common in extensive tracts of country, are to be taken into view, but many differences peculiar to Eastern, Middle, and Southern States. These differences are not so perceivable among the members of congress, and men of general information in the states, as among the men who would properly form the democratic branch. The Eastern states are very democratic, and composed chiefly of moderate freeholders ; they have but few rich men and no slaves ; the Southern states are composed chiefly of rich planters and slaves ; they have but few

moderate freeholders, and the prevailing influence, in them is generally a dissipated aristocracy: The Middle states partake partly of the Eastern and partly of the Southern character.

Perhaps, nothing could be more disjointed, unweildly and incompetent to doing business with harmony and dispatch, than a federal house of representatives properly numerous for the great objects of taxation, &c. collected from the federal states; whether such men would ever act in concert; whether they would not worry along a few years, and then be the means of [18] separating the parts of the union, is very problematical?—View this system in whatever form we can, propriety brings us still to this point, a federal government possessed of general and complete powers, as to those national objects which cannot well come under the cognizance of the internal laws of the respective states, and this federal government, accordingly, consisting of branches not very numerous.

The house of representatives is on the plan of consolidation, but the senate is entirely on the federal plan; and Delaware will have as much constitutional influence in the senate, as the largest state in the union: and in this senate are lodged legislative, executive and judicial powers: Ten states in this union urge that they are small states, nine of which were present in the convention.—They were interested in collecting large powers into the hands of the senate, in which each state still will have its equal share of power. I suppose it was impracticable for the three large states, as they were called, to get the senate formed on any other principles: But this only proves, that we cannot form one general government on equal and just principles—and proves, that we ought not to lodge in it such extensive powers before we are convinced of the practicability of organizing it on just and equal principles. The senate will consist of two members from each state, chosen by the state legislatures, every sixth year. The clause referred to, respecting the elections of representatives, empowers the general legislature to regulate the elections of senators also, “except as to the places of chusing senators.”—There is, therefore, but little more security in the elections than in those of representatives: Fourteen senators make a quorum

for business, and a majority of the senators present give the vote of the senate, except in giving judgment upon an impeachment, or in making treaties, or in expelling a member, when two-thirds of the senators present must agree—The members of the legislature are not excluded from being elected to any military offices, or any civil offices, except those created, or the emoluments of which shall be increased by themselves: two-thirds of the members present, of either house, may expel a member at pleasure. The senate is an independant branch of the legislature, a court for trying impeachments, and also a part of the executive, having a negative in the making of all treaties, and in appointing almost all officers.

The vice president is not a very important, if not an unnecessary part of the system—he may be a part of the senate at one period, and act as the supreme executive magistrate at another—The election of this officer, as well as of the president of the United States seems to be properly secured; but [19] when we examine the powers of the president, and the forms of the executive, we shall perceive that the general government, in this part, will have a strong tendency to aristocracy, or the government of the few. The executive is, in fact, the president and senate in all transactions of any importance; the president is connected with, or tied to the senate; he may always act with the senate, but never can effectually counteract its views: The president can appoint no officer, civil or military, who shall not be agreeable to the senate; and the presumption is, that the will of so important a body will not be very easily controuled, and that it will exercise its powers with great address.

In the judicial department, powers ever kept distinct in well balanced governments, are no less improperly blended in the hands of the same men—in the judges of the supreme court is lodged the law, the equity and the fact. It is not necessary to pursue the minute organical parts of the general government proposed.—There were various interests in the convention, to be reconciled, especially of large and small states; of carrying and non-carrying states; and of states more and

states less democratic—vast labour and attention were by the convention bestowed on the organization of the parts of the constitution offered; still it is acknowledged there are many things radically wrong in the essential parts of this constitution—but it is said that these are the result of our situation: On a full examination of the subject, I believe it; but what do the laborious inquiries and determination of the convention prove? If they prove any thing, they prove that we cannot consolidate the states on proper principles: The organization of the government presented proves, that we cannot form a general government in which all power can be safely lodged; and a little attention to the parts of the one proposed will make it appear very evident, that all the powers proposed to be lodged in it, will not be then well deposited, either for the purposes of government, or the preservation of liberty. I will suppose no abuse of power in those cases, in which the abuse of it is not well guarded against—I will suppose the words authorizing the general government to regulate the elections of its own members struck out of the plan, or free district elections, in each state, amply secured.—That the small representation provided for shall be as fair and equal as it is capable of being made—I will suppose the judicial department regulated on pure principles, by future laws, as far as it can be by the constitution, and consist with the situation of the country—still there will be an unreasonable accumulation of powers in the general government if all be granted, enumerated in the plan proposed. The plan does not present a well balanced government: The senatorial [20] branch of the legislative and the executive are substantially united, and the president, or the state executive magistrate, may aid the senatorial interest when weakest, but never can effectually support the democratic, however it may be opposed;—the excellency, in my mind, of a well-balanced government is that it consists of distinct branches, each sufficiently strong and independant to keep its own station, and to aid either of the other branches which may occasionally want aid.

The convention found that any but a small house of representatives would be expensive, and that it would be impractic-

able to assemble a large number of representatives. Not only the determination of the convention in this case, but the situation of the states, proves the impracticability of collecting, in any one point, a proper representation.

The formation of the senate, and the smallness of the house, being, therefore, the result of our situation, and the actual state of things, the evils which may attend the exercise of many powers in this national government may be considered as without a remedy.

All officers are impeachable before the senate only—before the men by whom they are appointed, or who are consenting to the appointment of these officers. No judgment of conviction, on an impeachment, can be given unless two thirds of the senators agree. Under these circumstances the right of impeachment, in the house, can be of but little importance; the house cannot expect often to convict the offender; and, therefore, probably, will but seldom or never exercise the right. In addition to the insecurity and inconveniences attending this organization beforementioned, it may be observed, that it is extremely difficult to secure the people against the fatal effects of corruption and influence. The power of making any law will be in the president, eight senators, and seventeen representatives, relative to the important objects enumerated in the constitution. Where there is a small representation a sufficient number to carry any measure, may, with ease, be influenced by bribes, offices and civilities; they easily form private juntees, and out-door meetings, agree on measures, and carry them by silent votes.

Impressed, as I am, with a sense of the difficulties there are in the way of forming the parts of a federal government on proper principles, and seeing a government so unsubstantially organized, after so arduous an attempt has been made, I am led to believe, that powers ought to be given to it with great care and caution.

In the second place it is necessary, therefore, to examine the extent, and the probable operations of some of those extensive powers proposed to be vested in this government. These powers, legislative, executive, and judicial, respect

internal as well as external objects. Those respecting external objects, as all foreign concerns, commerce, imposts, all causes arising on the seas, peace and war, and Indian affairs, can be lodged no where else, with any propriety, but in this government. Many powers that respect internal objects ought clearly to be lodged in it; as those to regulate trade between the states, weights and measures, the coin or current monies, post-offices, naturalization, &c. These powers may be exercised without essentially effecting the internal police of the respective states: But powers to lay and collect internal taxes, to form the militia, to make bankrupt laws, and to decide on appeals, questions arising on the internal laws of the respective states, are of a very serious nature, and carry with them almost all other powers. These taken in connection with the others, and powers to raise armies and build navies, proposed to be lodged in this government, appear to me to comprehend all the essential powers in this community, and those which will be left to the states will be of no great importance.

A power to lay and collect taxes at discretion, is, in itself, of very great importance. By means of taxes, the government may command the whole or any part of the subject's property. Taxes may be of various kinds; but there is a strong distinction between external and internal taxes. External taxes are import duties, which are laid on imported goods; they may usually be collected in a few seaport towns, and of a few individuals, though ultimately paid by the consumer; a few officers can collect them, and they can be carried no higher than trade will bear, or smuggling permit—that in the very nature of commerce, bounds are set to them. But internal taxes, as poll and land taxes, excises, duties on all written instruments, &c. may fix themselves on every person and species of property in the community; they may be carried to any lengths, and in proportion as they are extended, numerous officers must be employed to assess them, and to enforce the collection of them. In the United Netherlands the general government has compleat powers, as to external taxation; but as to internal taxes, it makes requisitions on the

provinces. Internal taxation in this country is more important, as the country is so very extensive. As many assessors and collectors of federal taxes will be above three hundred miles from the seat of the federal government as will be less. Besides, to lay and collect taxes, in this extensive country, must require a great number of congressional ordinances, immediately operating upon the body of the people ; these must continually interfere with the state laws, [22] and thereby produce disorder and general dissatisfaction, till the one system of laws or the other, operating on the same subjects, shall be abolished. These ordinances alone, to say nothing of those respecting the militia, coin, commerce, federal judiciary, &c. &c. will probably soon defeat the operations of the state laws and governments.

Should the general government think it politic, as some administration (if not all) probably will, to look for a support in a system of influence, the government will take every occasion to multiply laws, and officers to execute them, considering these as so many necessary props for its own support. Should this system of policy be adopted, taxes more productive than the impost duties will, probably, be wanted to support the government, and to discharge foreign demands, without leaving any thing for the domestic creditors. The internal sources of taxation then must be called into operation, and internal tax laws and federal assessors and collectors spread over this immense country. All these circumstances considered, is it wise, prudent, or safe, to vest the powers of laying and collecting internal taxes in the general government, while imperfectly organized and inadequate ; and to trust to amending it hereafter, and making it adequate to this purpose ? It is not only unsafe but absurd to lodge power in a government before it is fitted to receive it ? It is confessed that this power and representation ought to go together. Why give the power first ? Why give the power to the few, who, when possessed of it, may have address enough to prevent the increase of representation ? Why not keep the power, and, when necessary, amend the constitution, and add to its other parts this power, and a proper increase of representation at the same

time? Then men who may want the power will be under strong inducements to let in the people, by their representatives, into the government, to hold their due proportion of this power. If a proper representation be impracticable, then we shall see this power resting in the states, where it at present ought to be, and not inconsiderately given up.

When I recollect how lately congress, conventions, legislatures, and people contended in the cause of liberty, and carefully weighed the importance of taxation, I can scarcely believe we are serious in proposing to vest the powers of laying and collecting internal taxes in a government so imperfectly organized for such purposes. Should the United States be taxed by a house of representatives of two hundred members, which would be about fifteen members for Connecticut, twenty-five for Massachusetts, &c. still the middle and lower classes of people could have no great share, in fact, in taxation. I am aware it is said, that the representation proposed by the new [23] constitution is sufficiently numerous; it may be for many purposes; but to suppose that this branch is sufficiently numerous to guard the rights of the people in the administration of the government, in which the purse and sword is placed, seems to argue that we have forgot what the true meaning of representation is. I am sensible also, that it is said that congress will not attempt to lay and collect internal taxes; that it is necessary for them to have the power, though it cannot probably be exercised.——I admit that it is not probable that any prudent congress will attempt to lay and collect internal taxes, especially direct taxes: but this only proves, that the power would be improperly lodged in congress, and that it might be abused by imprudent and designing men.

I have heard several gentlemen, to get rid of objections to this part of the constitution, attempt to construe the powers relative to direct taxes, as those who object to it would have them; as to these, it is said, that congress will only have power to make requisitions, leaving it to the states to lay and collect them. I see but very little colour for this construction, and the attempt only proves that this part of the plan cannot

be defended. By this plan there can be no doubt, but that the powers of congress will be complete as to all kinds of taxes whatever—Further, as to internal taxes, the state governments will have concurrent powers with the general government, and both may tax the same objects in the same year; and the objection that the general government may suspend a state tax, as a necessary measure for the promoting the collection of a federal tax, is not without foundation.—As the states owe large debts, and have large demands upon them individually, there clearly will be a propriety in leaving in their possession exclusively, some of the internal sources of taxation, at least until the federal representation shall be properly increased: The power in the general government to lay and collect internal taxes, will render its powers respecting armies, navies and the militia, the more exceptionable. By the constitution it is proposed that congress shall have power “to raise and support armies, but no appropriation of money to that use shall be for a longer term than two years; to provide and maintain a navy; to provide for calling forth the militia to execute the laws of the union; suppress insurrections, and repel invasions: to provide for organizing, arming, and disciplining the militia;” reserving to the states the right to appoint the officers, and to train the militia according to the discipline prescribed by congress; congress will have unlimited power to raise armies, and to engage officers and men for any number of years; but a legislative act applying money for their support can have operation for no longer term than two years, and if a subsequent congress do [24] not within the two years renew the appropriation, or further appropriate monies for the use of the army, the army will be left to take care of itself. When an army shall once be raised for a number of years, it is not probable that it will find much difficulty in getting congress to pass laws for applying monies to its support. I see so many men in America fond of a standing army, and especially among those who probably will have a large share in administering the federal system; it is very evident to me, that we shall have a large standing army as soon as the monies to support them can be possibly found. An army is not a very

agreeable place of employment for the young gentlemen of many families. A power to raise armies must be lodged some where; still this will not justify the lodging this power in a bare majority of so few men without any checks; or in the government in which the great body of the people, in the nature of things, will be only nominally represented. In the state governments the great body of the people, the yeomanry, &c. of the country, are represented: It is true they will chuse the members of congress, and may now and then chuse a man of their own way of thinking; but it is not impossible for forty, or thirty thousand people in this country, one time in ten to find a man who can possess similar feelings, views, and interests with themselves: Powers to lay and collect taxes and to raise armies are of the greatest moment; for carrying them into effect, laws need not be frequently made, and the yeomanry, &c. of the country ought substantially to have a check upon the passing of these laws; this check ought to be placed in the legislatures, or at least, in the few men the common people of the country, will, probably, have in congress, in the true sense of the word, "from among themselves." It is true, the yeomanry of the country possess the lands, the weight of property, possess arms, and are too strong a body of men to be openly offended — and, therefore, it is urged, they will take care of themselves, that men who shall govern will not dare pay any disrespect to their opinions. It is easily perceived, that if they have not their proper negative upon passing laws in congress, or on the passage of laws relative to taxes and armies, they may in twenty or thirty years be by means imperceptible to them, totally deprived of that boasted weight and strength: This may be done in a great measure by congress, if disposed to do it, by modelling the militia, Should one fifth or one eighth part of the men capable of bearing arms, be made a select militia, as has been proposed, and those the young and ardent part of the community, possessed of but little or no property, and all the others put upon a plan that will render them of no importance, the former will answer all the purposes of an [25] army, while the latter will be defenceless. The state must train the militia in such form and according to such systems

and rules as congress shall prescribe : and the only actual influence the respective states will have respecting the militia will be in appointing the officers. I see no provision made for calling out the *posse comitatus* for executing the laws of the union, but provision is made for congress to call forth the militia for the execution of them—and the militia in general, or any select part of it, may be called out under military officers, instead of the sheriff to enforce an execution of federal laws, in the first instance, and thereby introduce an entire military execution of the laws. I know that powers to raise taxes, to regulate the military strength of the community on some uniform plan, to provide for its defence and internal order, and for duly executing the laws, must be lodged somewhere ; but still we ought not so to lodge them, as evidently to give one order of men in the community, undue advantages over others ; or commit the many to the mercy, prudence, and moderation of the few. And so far as it may be necessary to lodge any of the peculiar powers in the general government, a more safe exercise of them ought to be secured, by requiring the consent of two-thirds or three-fourths of congress thereto—until the federal representation can be increased, so that the democratic members in congress may stand some tolerable chance of a reasonable negative, in behalf of the numerous, important, and democratic part of the community.

I am not sufficiently acquainted with the laws and internal police of all the states to discern fully, how general bankrupt laws, made by the union, would effect them, or promote the public good. I believe the property of debtors, in the several states, is held responsible for their debts in modes and forms very different. If uniform bankrupt laws can be made without producing real and substantial inconveniences, I wish them to be made by congress.

There are some powers proposed to be lodged in the general government in the judicial department, I think very unnecessarily, I mean powers respecting questions arising upon the internal laws of the respective states. It is proper the federal judiciary should have powers co-extensive with the federal legislature—that is, the power of deciding finally on the laws

of the union. By Art. 3, Sec. 2. the powers of the federal judiciary are extended (among other things) to all cases between a state and citizens of another state—between citizens of different states—between a state or the citizens thereof, and foreign states, citizens or subjects. Actions in all these cases, except against a state government, are now brought and finally [26] determined in the law courts of the states respectively and as there are no words to exclude these courts of their jurisdiction in these cases, they will have concurrent jurisdiction with the inferior federal courts in them; and, therefore, if the new constitution be adopted without any amendment in this respect, all those numerous actions, now brought in the state courts between our citizens and foreigners, between citizens of different states, by state governments against foreigners, and by state governments against citizens of other states, may also be brought in the federal courts; and an appeal will lay in them from the state courts or federal inferior courts to the supreme judicial court of the union. In almost all these cases, either party may have the trial by jury in the state courts; except paper money and tender laws, which are wisely guarded against in the proposed constitution; justice may be obtained in these courts on reasonable terms; they must be more competent to proper decisions on the laws of their respective states, than the federal states can possibly be. I do not, in any point of view, see the need of opening a new jurisdiction in these causes—of opening a new scene of expensive law suits, of suffering foreigners, and citizens of different states, to drag each other many hundred miles into the federal courts. It is true, those courts may be so organized by a wise and prudent legislature, as to make the obtaining of justice in them tolerably easy; they may in general be organized on the common law principles of the country: But this benefit is by no means secured by the constitution. The trial by jury is secured only in those few criminal cases, to which the federal laws will extend—as crimes committed on the seas, against the laws of nations, treason and counterfeiting the federal securities and coin: But even in these cases, the jury trial of the vicinage is not secured—particularly in the large states, a citizen may be

tried for a crime committed in the state, and yet tried in some states 500 miles from the place where it was committed; but the jury trial is not secured at all in civil causes. Though the convention have not established this trial, it is to be hoped that congress, in putting the new system into execution, will do it by a legislative act, in all cases in which it can be done with propriety. Whether the jury trial is not excluded the supreme judicial court is an important question. By Art. 3, Sec. 2, all cases affecting ambassadors, other public ministers, and consuls, and in those cases in which a state shall be party, the supreme court shall have jurisdiction. In all the other cases beforementioned, the supreme court shall have appellate jurisdiction, both as to *law and fact*, with such exception, and under such regulations as the congress shall make. By court is understood a court consisting of judges; and the [27] idea of a jury is excluded. This court, or the judges, are to have jurisdiction on appeals, in all the cases enumerated, as to law and fact; the judges are to decide the law and try the fact, and the trial of the fact being assigned to the judges by the constitution, a jury for trying the fact is excluded; however, under the exceptions and powers to make regulations, congress may, perhaps, introduce the jury, to try the fact in most necessary cases.

There can be but one supreme court in which the final jurisdiction will centre in all federal causes—except in cases where appeals by law shall not be allowed: The judicial powers of the federal courts extend in law and equity to certain cases: and, therefore, the powers to determine on the law, in equity, and as to the fact, all will concentrate in the supreme court:—These powers, which by this constitution are blended in the same hands, the same judges, are in Great-Britain deposited in different hands—to wit, the decision of the law in the law judges, the decision in equity in the chancellor, and the trial of the fact in the jury. It is a very dangerous thing to vest in the same judge power to decide on the law, and also general powers in equity; for if the law restrain him, he is only to step into his shoes of equity, and give what judgment his reason or opinion may dictate; we have no precedents in this country,

as yet, to regulate the divisions in equity as in Great Britain; equity, therefore, in the supreme court for many years will be mere discretion. I confess in the constitution of this supreme court, as left by the constitution, I do not see a spark of freedom or a shadow of our own or the British common law.

This court is to have appellate jurisdiction in all the other cases before mentioned: Many sensible men suppose that cases before mentioned respect, as well the criminal cases as the civil ones mentioned antecedently in the constitution, if so an appeal is allowed in criminal cases—contrary to the usual sense of law. How far it may be proper to admit a foreigner or the citizen of another state to bring actions against state governments, which have failed in performing so many, promises made during the war is doubtful: How far it may be proper so to humble a state, as to oblige it to answer to an individual in a court of law, is worthy of consideration; the states are now subject to no such actions; and this new jurisdiction will subject the states, and many defendants to actions, and processes, which were not in the contemplation of the parties, when the contract was made; all engagements existing between citizens of different states, citizens and foreigners, states and foreigners; and states and citizens of other states were made the parties contemplating the remedies then existing on the laws of the states—[28] and the new remedy proposed to be given in the federal courts, can be founded on no principle whatever.

Your's, &c,

THE FEDERAL FARMER.

LETTER IV.

OCTOBER 12th, 1787.

DEAR SIR,

It will not be possible to establish in the federal courts the jury trial of the vicinage so well as in the state courts.

Third, there appears to me to be not only a premature deposit of some important powers in the general government—but many of those deposited there are undefined, and may be used to good or bad purposes as honest or designing men shall prevail. By Art. 1, Sec. 2, representatives and direct taxes shall be apportioned among the several states, &c.—same art. sect. 8, the congress shall have powers to lay and collect taxes, duties, &c. for the common defence and general welfare, but all duties, imposts and excises, shall be uniform throughout the United States: By the first recited clause, direct taxes shall be apportioned on the states. This seems to favour the idea suggested by some sensible men and writers that congress, as to direct taxes, will only have power to make requisitions; but the latter clause, power to lay and collect taxes, &c. seems clearly to favour the contrary opinion, and, in my mind, the true one, the congress shall have power to tax immediately individuals, without the intervention of the state legislatures, in fact the first clause appears to me only to provide that each state shall pay a certain portion of the tax, and the latter to provide that congress shall have power to lay and collect taxes, that is to assess upon, and to collect of the individuals in the state, the states quota; but these still I consider as undefined powers, because judicious men understand them differently.

It is doubtful whether the vice-president is to have any qualifications; none are mentioned; but he may serve as president, and it may be inferred, he ought to be qualified therefore as the president; but the qualifications of the president are required only of the person to be elected president. By art. 2, sect. 2, "But the congress may by law vest the appointment of such inferior officers as they think proper in the

president alone, in the courts of law, or in the heads of the departments:" Who are inferior officers? May not a congress disposed to vest the appointment of all officers in the president, [29] under this clause, vest the appointment of almost every officer in the president alone, and destroy the check mentioned in the first part of the clause, and lodged in the senate. It is true, this check is badly lodged, but then some check upon the first magistrate in appointing officers, ought it appears by the opinion of the convention, and by the general opinion, to be established in the constitution. By art. 3, sect. 2, the supreme court shall have appellate jurisdiction as to law and facts with such exceptions, &c. to what extent is it intended the exceptions shall be carried—Congress may carry them so far as to annihilate substantially the appellate jurisdiction, and the clause be rendered of very little importance.

4th. There are certain rights which we have always held sacred in the United States, and recognized in all our constitutions, and which, by the adoption of the new constitution in its present form, will be left unsecured. By article 6, the proposed constitution, and the laws of the United States, which shall be made in pursuance thereof; and all treaties made, or which shall be made under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby; anything in the constitution or laws of any state to the contrary notwithstanding.

It is to be observed that when the people shall adopt the proposed constitution it will be their last and supreme act; it will be adopted not by the people of New Hampshire, Massachusetts, &c., but by the people of the United States; and wherever this constitution, or any part of it, shall be incompatible with the ancient customs, rights, the laws or the constitutions heretofore established in the United States, it will entirely abolish them and do them away: And not only this, but the laws of the United States which shall be; made in pursuance of the federal constitution will be also supreme laws, and wherever they shall be incompatible with those customs, rights, laws or constitutions heretofore established, they will also entirely abolish them and do them away.

By the article before recited, treaties also made under the authority of the United States, shall be the supreme law: It is not said that these treaties shall be made in pursuance of the constitution—nor are there any constitutional bounds set to those who shall make them: The president and two-thirds of the senate will be empowered to make treaties indefinitely, and when these treaties shall be made, they will also abolish all laws and state constitutions incompatible with them. This power in the president and senate is absolute, and the judges will be bound to allow full force to whatever rule, article or thing the president and senate shall establish by treaty, whether it be [30] practicable to set any bounds to those who make treaties, I am not able to say; if not, it proves that this power ought to be more safely lodged.

The federal constitution, the laws of congress made in pursuance of the constitution, and all treaties must have full force and effect in all parts of the United States; and all other laws, rights and constitutions which stand in their way must yield: It is proper the national laws should be supreme, and superior to state or district laws; but then the national laws ought to yield to unalienable or fundamental rights—and national laws, made by a few men, should extend only to a few national objects. This will not be the case with the laws of congress: To have any proper idea of their extent, we must carefully examine the legislative, executive and judicial powers proposed to be lodged in the general government, and consider them in connection with a general clause in art. 1, sect. 8, in these words (after enumerating a number of powers) "To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof."—The powers of this government as has been observed, extend to internal as well as external objects, and to those objects to which all others are subordinate; it is almost impossible to have a just conception of their powers, or of the extent and number of the laws which may be deemed necessary and proper to carry them into effect, till we shall come to exercise those powers and make

the laws. In making laws to carry those powers into effect, it is to be expected, that a wise and prudent congress will pay respect to the opinions of a free people, and bottom their laws on those principles which have been considered as essential and fundamental in the British, and in our government: But a congress of a different character will not be bound by the constitution to pay respect to those principles.

It is said that when people make a constitution, and delegate powers, that all powers are not delegated by them to those who govern, is reserved in the people; and that the people, in the present case, have reserved in themselves, and in their state governments, every right and power not expressly given by the federal constitution to those who shall administer the national government. It is said, on the other hand, that the people, when they make a constitution, yield all power not expressly reserved to themselves. The truth is, in either case, it is mere matter of opinion, and men usually take either side of the argument, as will best answer their purposes: But the general [31] presumption being, that men who govern, will in doubtful cases, construe laws and constitutions most favourably for increasing their own powers; all wise and prudent people, in forming constitutions, have drawn the line, and carefully described the powers parted with and the powers reserved. By the state constitutions, certain rights have been reserved in the people; or rather, they have been recognized and established in such a manner, that state legislatures are bound to respect them, and to make no laws infringing upon them. The state legislatures are obliged to take notice of the bills of rights of their respective states. The bills of rights, and the state constitutions, are fundamental compacts only between those who govern, and the people of the same state.

In the year 1788 the people of the United States made a federal constitution, which is a fundamental compact between them and their federal rulers; these rulers, in the nature of things, cannot be bound to take notice of any other compact. It would be absurd for them, in making laws, to look over thirteen, fifteen, or twenty state constitutions, to see what rights are established as fundamental, and must not be in-

fringed upon, in making laws in the society. It is true, they would be bound to do it if the people, in their federal compact, should refer to the state constitutions, recognize all parts not inconsistent with the federal constitution, and direct their federal rulers to take notice of them accordingly; but this is not the case, as the plan stands proposed at present; and it is absurd, to suppose so unnatural an idea is intended or implied. I think my opinion is not only founded in reason, but I think it is supported by the report of the convention itself. If there are a number of rights established by the state constitutions, and which will remain sacred, and the general government is bound to take notice of them—it must take notice of one as well as another; and if unnecessary to recognize or establish one by the federal constitution, it would be unnecessary to recognize or establish another by it. If the federal constitution is to be construed so far in connection with the state constitution, as to leave the trial by jury in civil causes, for instance, secured; on the same principles it would have left the trial by jury in criminal causes, the benefits of the writ of habeas corpus, &c. secured; they all stand on the same footing; they are the common rights of Americans, and have been recognized by the state constitutions: But the convention found it necessary to recognize or re-establish the benefits of that writ, and the jury trial in criminal cases. As to *ex post facto* laws, the convention has done the same in one case, and gone further in another. It is a part of the com-[32] pact between the people of each state and their rulers, that no *ex post facto* laws shall be made. But the convention, by Art. 1, Sect. 10, have put a sanction upon this part even of the state compacts. In fact, the 9th and 10th Sections in Art. 1, in the proposed constitution, are no more nor less, than a partial bill of rights; they establish certain principles as part of the compact upon which the federal legislators and officers can never infringe. It is here wisely stipulated, that the federal legislature shall never pass a bill of attainder, or *ex post facto* law; that no tax shall be laid on articles exported, &c. The establishing of one right implies the necessity of establishing another and similar one.

On the whole, the position appears to me to be undeniable, that this bill of rights ought to be carried farther, and some other principles established, as a part of this fundamental compact between the people of the United States and their federal rulers.

It is true, we are not disposed to differ much, at present, about religion; but when we are making a constitution, it is to be hoped, for ages and millions yet unborn, why not establish the free exercise of religion, as a part of the national compact. There are other essential rights, which we have justly understood to be the rights of freemen; as freedom from hasty and unreasonable search warrants, warrants not founded on oath, and not issued with due caution, for searching and seizing men's papers, property, and persons. The trials by jury in civil causes, it is said, varies so much in the several states, that no words could be found for the uniform establishment of it. If so, the federal legislation will not be able to establish it by any general laws. I confess I am of opinion it may be established, but not in that beneficial manner in which we may enjoy it, for the reasons beforementioned. When I speak of the jury trial of the vicinage, or the trial of the fact in the neighborhood, I do not lay so much stress upon the circumstance of our being tried by our neighbours: in this enlightened country men may be probably impartially tried by those who do not live very near them: but the trial of facts in the neighbourhood is of great importance in other respects. Nothing can be more essential than the cross examining witnesses, and generally before the triers of the facts in question. The common people can establish facts with much more ease with oral than written evidence; when trials of facts are removed to a distance from the homes of the parties and witnesses, oral evidence becomes intolerably expensive, and the parties must depend on written evidence, which to the common people is expensive and almost [33] useless; it must be frequently taken ex parte, and but very seldom leads to the proper discovery of truth.

The trial by jury is very important in another point of view. It is essential in every free country, that common

people should have a part and share of influence, in the judicial as well as in the legislative department. To hold open to them the offices of senators, judges, and offices to fill which an expensive education is required, cannot answer any valuable purposes for them; they are not in a situation to be brought forward and to fill those offices; these, and most other offices of any considerable importance, will be occupied by the few. The few, the well born, &c. as Mr. Adams calls them, in judicial decisions as well as in legislation, are generally disposed, and very naturally too, to favour those of their own description.

The trial by jury in the judicial department, and the collection of the people by their representatives in the legislature, are those fortunate inventions which have procured for them, in this country, their true proportion of influence, and the wisest and most fit means of protecting themselves in the community. Their situation, as jurors and representatives, enables them to acquire information and knowledge in the affairs and government of the society; and to come forward, in turn, as the centinels and guardians of each other. I am very sorry that even a few of our countrymen should consider jurors and representatives in a different point of view, as ignorant, troublesome bodies, which ought not to have any share in the concerns of government.

I confess I do not see in what cases the congress can, with any pretence of right, make a law to suppress the freedom of the press; though I am not clear, that congress is restrained from laying any duties whatever on printing, and from laying duties particularly heavy on certain pieces printed, and perhaps congress may require large bonds for the payment of these duties. Should the printer say, the freedom of the press was secured by the constitution of the state in which he lived, congress might, and perhaps, with great propriety, answer, that the federal constitution is the only compact existing between them and the people; in this compact the people have named no others, and therefore congress, in exercising the powers assigned them, and in making laws to carry them into execution, are restrained by nothing beside the federal constitution,

any more than a state legislature is restrained by a compact between the magistrates and people of a county, city, or town of which the people, in forming the state constitution, have taken no notice.

It is not my object to enumerate rights of inconsiderable [34] importance; but there are others, no doubt, which ought to be established as a fundamental part of the national system.

It is worthy of observation, that all treaties are made by foreign nations with a confederacy of thirteen states—that the western country is attached to thirteen states—thirteen states have jointly and severally engaged to pay the public debts.—Should a new government be formed of nine, ten, eleven, or twelve states, those treaties could not be considered as binding on the foreign nations who made them. However, I believe the probability to be, that if nine states adopt the constitution, the others will.

It may also be worthy our examination, how far the provision for amending this plan, when it shall be adopted, is of any importance. No measures can be taken towards amendments, unless two-thirds of the congress, or two-thirds of the legislature of the several states shall agree.—While power is in the hands of the people, or democratic part of the community, more especially as at present, it is easy, according to the general course of human affairs, for the few influential men in the community, to obtain conventions, alterations in government, and to persuade the common people that they may change for the better, and to get from them a part of the power: But when power is once transferred from the many to the few, all changes become extremely difficult; the government, in this case, being beneficial to the few, they will be exceedingly artful and adroit in preventing any measures which may lead to a change; and nothing will produce it, but great exertions and severe struggles on the part of the common people. Every man of reflection must see, that the change now proposed, is a transfer of power from the many to the few, and the probability is, the artful and ever active aristocracy, will prevent all peaceful measures for changes, unless when they shall discover some favorable moment to increase their own

influence. I am sensible, thousands of men in the United States, are disposed to adopt the proposed constitution, though they perceive it to be essentially defective, under an idea that amendments of it, may be obtained when necessary. This is a pernicious idea, it argues a servility of character totally unfit for the support of free government; it is very repugnant to that perpetual jealousy respecting liberty, so absolutely necessary in all free states, spoken of by Mr. Dickinson.— However, if our countrymen are so soon changed, and the language of 1774, is become odious to them, it will be in vain to use the language of freedom, or to attempt to rouse them to free enquiries: But I shall never believe this is the case with them, whatever present appearances may be, till I shall have very strong evidence indeed of it.

Your's, &c.

THE FEDERAL FARMER.

[35]

LETTER V.

OCTOBER 15th, 1787.

DEAR SIR,

Thus I have examined the federal constitution as far as a few days leisure would permit. It opens to my mind a new scene; instead of seeing powers cautiously lodged in the hands of numerous legislators, and many magistrates, we see all important powers collecting in one centre, where a few men will possess them almost at discretion. And instead of checks in the formation of the government, to secure the rights of the people against the usurpations of those they appoint to govern, we are to understand the equal division of lands among our people, and the strong arm furnished them by nature and situation, are to secure them against those usurpations. If there are advantages in the equal division of our lands, and the strong and manly habits of our people, we ought to establish governments calculated to give duration to them, and not governments which never can work naturally,

till that equality of property, and those free and manly habits shall be destroyed; these evidently are not the natural basis of the proposed constitution. No man of reflection, and skilled in the science of government, can suppose these will move on harmoniously together for ages, or even for fifty years. As to the little circumstances commented upon, by some writers, with applause—as the age of a representative, of the president, &c.—they have, in my mind, no weight in the general tendency of the system.

There are, however, in my opinion, many good things in the proposed system. It is founded on elective principles, and the deposits of powers in different hands, is essentially right. The guards against those evils we have experienced in some states in legislation are valuable indeed; but the value of every feature in this system is vastly lessened for the want of that one important feature in a free government, a representation of the people. Because we have sometimes abused democracy, I am not among those men who think a democratic branch a nuisance; which branch shall be sufficiently numerous to admit some of the best informed men of each order in the community into the administration of government.

While the radical defects in the proposed system are not so soon discovered, some temptations to each state, and to many classes of men to adopt it, are very visible. It uses the democratic language of several of the state constitutions, particularly that of Massachusetts; the eastern states will receive advantages so far as the regulation of trade, by a bare majority, is committed to it: Connecticut and New Jersey will receive their share of a [36] general impost: The middle states will receive the advantages surrounding the seat of government; The southern states will receive protection, and have their negroes represented in the legislature, and large back countries will soon have a majority in it. This system promises a large field of employment to military gentlemen, and gentlemen of the law; and in case the government shall be executed without convulsions, it will afford security to creditors, to the clergy, salary-men and others depending on money payments. So far as the system promises justice and reasonable ad-

vantages, in these respects, it ought to be supported by all honest men; but whenever it promises unequal and improper advantages to any particular states, or orders of men, it ought to be opposed.

I have, in the course of these letters observed, that there are many good things in the proposed constitution, and I have endeavored to point out many important defects in it. I have admitted that we want a federal system—that we have a system presented, which, with several alterations may be made a tolerable good one—I have admitted there is a well founded uneasiness among creditors and mercantile men. In this situation of things, you ask me what I think ought to be done? My opinion in this case is only the opinion of an individual, and so far only as it corresponds with the opinions of the honest and substantial part of the community, is it entitled to consideration. Though I am fully satisfied that the state conventions ought most seriously to direct their exertions to altering and amending the system proposed before they shall adopt it—yet I have not sufficiently examined the subject, or formed an opinion, how far it will be practicable for those conventions to carry their amendments. As to the idea, that it will be in vain for those conventions to attempt amendments, it cannot be admitted; it is impossible to say whether they can or not until the attempt shall be made; and when it shall be determined, by experience, that the conventions cannot agree in amendments, it will then be an important question before the people of the United States, whether they will adopt or not the system proposed in its present form. This subject of consolidating the states is new: and because forty or fifty men have agreed in a system, to suppose the good sense of this country, an enlightened nation, must adopt it without examination, and though in a state of profound peace, without endeavouring to amend those parts they perceive are defective, dangerous to freedom, and destructive of the valuable principles of republican government—is truly humiliating. It is true there may be danger in delay; but there is danger in adopting the system in its present form; and I see the danger in either case will arise principally from

the conduct and views of [37] two very unprincipled parties in the United States—two fires, between which the honest and substantial people have long found themselves situated. One party is composed of little insurgents, men in debt, who want no law, and who want a share of the property of others; these are called levellers, Shayites, &c. The other party is composed of a few, but more dangerous men, with their servile dependents; these avariciously grasp at all power and property; you may discover in all the actions of these men, an evident dislike to free and equal government, and they will go systematically to work to change, essentially, the forms of government in this country; these are called aristocrats, m—ites, &c. &c. Between these two parties is the weight of the community; the men of middling property, men not in debt on the one hand, and men, on the other, content with republican governments, and not aiming at immense fortunes, offices, and power. In 1786, the little insurgents, the levellers, came forth, invaded the rights of others, and attempted to establish governments according to their wills. Their movements evidently gave encouragement to the other party, which, in 1787, has taken the political field, and with its fashionable dependants, and the tongue and the pen, is endeavoring to establish in a great haste, a politer kind of government. These two parties, which will probably be opposed or united as it may suit their interests and views, are really insignificant, compared with the solid, free, and independent part of the community. It is not my intention to suggest, that either of these parties, and the real friends of the proposed constitution, are the same men. The fact is, these aristocrats support and hasten the adoption of the proposed constitution, merely because they think it is a stepping stone to their favorite object. I think I am well founded in this idea; I think the general politics of these men support it, as well as the common observation among them, That the proffered plan is the best that can be got at present, it will do for a few years, and lead to something better. The sensible and judicious part of the community will carefully weigh all these circumstances; they will view the late convention as

a respectable body of men—America probably never will see an assembly of men, of a like number, more respectable. But the members of the convention met without knowing the sentiments of one man in ten thousand in these states respecting the new ground taken. Their doings are but the first attempts in the most important scene ever opened. Though each individual in the state conventions will not, probably, be so respectable as each individual in the federal convention, yet as the state conventions will probably consist of fifteen hundred or two thousand men of abilities, and versed in the science of government, [38] collected from all parts of the community and from all orders of men, it must be acknowledged that the weight of respectability will be in them—In them will be collected the solid sense and the real political character of the country. Being revisers of the subject, they will possess peculiar advantages. To say that these conventions ought not to attempt, coolly and deliberately, the revision of the system, or that they cannot amend it, is very foolish or very assuming. If these conventions, after examining the system, adopt it, I shall be perfectly satisfied, and wish to see men make the administration of the government an equal blessing to all orders of men. I believe the great body of our people to be virtuous and friendly to good government, to the protection of liberty and property; and it is the duty of all good men, especially of those who are placed as sentinels to guard their rights—it is their duty to examine into the prevailing politics of parties, and to disclose them—while they avoid exciting undue suspicions, to lay facts before the people, which will enable them to form a proper judgment. Men who wish the people of this country to determine for themselves, and deliberately to fit the government to their situation, must feel some degree of indignation at those attempts to hurry the adoption of a system, and to shut the door against examination. The very attempts create suspicions, that those who make them have secret views, or see some defects in the system, which, in the hurry of affairs, they expect will escape the eye of a free people.

What can be the views of those gentlemen in Pennsylvania,

who precipitated decisions on this subject? What can be the views of those gentlemen in Boston, who countenanced the Printers in shutting up the press against a fair and free investigation of this important system in the usual way. The members of the convention have done their duty—why should some of them fly to their states—almost forget a propriety of behaviour, and precipitate measures for the adoption of a system of their own making? I confess candidly, when I consider these circumstances in connection with the unguarded parts of the system I have mentioned, I feel disposed to proceed with very great caution, and to pay more attention than usual to the conduct of particular characters. If the constitution presented be a good one, it will stand the test with a well informed people: all are agreed that there shall be state conventions to examine it; and we must believe it will be adopted, unless we suppose it is a bad one, or that those conventions will make false divisions respecting it. I admit improper measures are taken against the adoption of the system as well for it—all who object to the plan proposed ought to point out the defects [39] objected to, and to propose those amendments with which they can accept it, or to propose some other system of government, that the public mind may be known, and that we may be brought to agree in some system of government, to strengthen and execute the present, or to provide a substitute. I consider the field of enquiry just opened, and that we are to look to the state conventions for ultimate decisions on the subject before us; it is not to be presumed, that they will differ about small amendments, and lose a system when they shall have made it substantially good; but touching the essential amendments, it is to be presumed the several conventions will pursue the most rational measures to agree in and obtain them; and such defects as they shall discover and not remove, they will probably notice, keep them in view as the ground work of future amendments, and in the firm and manly language which every free people ought to use, will suggest to those who may hereafter administer the government, that it is their expectation, that the system will be so organized by legislative acts, and the

government so administered, as to render those defects as little injurious as possible. Our countrymen are entitled to an honest and faithful government; to a government of laws and not of men; and also to one of their choosing—as a citizen of the country, I wish to see these objects secured, and licentious, assuming, and overbearing men restrained; if the constitution or social compact be vague and unguarded, then we depend wholly upon the prudence, wisdom and moderation of those who manage the affairs of government; or on what, probably, is equally uncertain and precarious, the success of the people oppressed by the abuse of government, in receiving it from the hands of those who abuse it, and placing it in the hands of those who will use it well.

In every point of view, therefore, in which I have been able, as yet, to contemplate this subject, I can discern but one rational mode of proceeding relative to it: and that is to examine it with freedom and candour, to have state conventions some months hence, which shall examine coolly every article, clause, and word in the system proposed, and to adopt it with such amendments as they shall think fit. How far the state conventions ought to pursue the mode prescribed by the federal convention of adopting or rejecting the plan in toto, I leave it to them to determine. Our examination of the subject hitherto has been rather of a general nature. The republican characters in the several states, who wish to make this plan more adequate to security of liberty and property, and to the duration of the principles of a free government, will, no doubt, collect their opinions to certain points, and accurately define those [40] alterations and amendments they wish; if it shall be found they essentially disagree in them, the conventions will then be able to determine whether to adopt the plan as it is, or what will be proper to be done.

Under these impressions, and keeping in view the improper and unadvisable lodgment of powers in the general government, organized as it at present is, touching internal taxes, armies and militia, the elections of its own members, causes between citizens of different states, &c. and the want of a more perfect bill of rights, &c. I drop the subject for the

present, and when I shall have leisure to revise and correct my ideas respecting it, and to collect into points the opinions of those who wish to make the system more secure and safe, perhaps I may proceed to point out particularly for your consideration, the amendments which ought to be ingrafted into this system, not only in conformity to my own, but the deliberate opinions of others—you will with me perceive, that the objections to the plan proposed may, by a more leisure examination be set in a stronger point of view, especially the important one, that there is no substantial representation of the people provided for in a government in which the most essential powers, even as to the internal police of the country, is proposed to be lodged.

I think the honest and substantial part of the community will wish to see this system altered, permanency and consistency given to the constitution we shall adopt; and therefore they will be anxious to apportion the powers to the features and organizations of the government, and to see abuse in the exercise of power more effectually guarded against. It is suggested, that state officers, from interested motives will oppose the constitution presented—I see no reason for this, their places in general will not be effected, but new openings to offices and places of profit must evidently be made by the adoption of the constitution in its present form.

Your's, &c.

THE FEDERAL FARMER.

To the REPUBLICAN.

P^{lute}

172. 10. 21.

127. 12. 16

211. 8. 20. 2

273. 23. 18.

311. 21. 11.

182. 17. 6.

172. 10. 21.

211. 8. 20.

211. 8. 20.

292. 31

361. 28. 30.

163. 11. 11.

190.

200.

210.

f^u 599. 23. 6: à 15⁺ 3. 9085. 16. 6

P^{lute}

2819. 12. 20. à 15. 2. 6. 12613. 7—

f^u 600. à 15. 2. 9060.

P^{lu} 1019. 3. 26^u.

60789. 3. 6.

The laws of war, do not
admit of burning towns, & destroying of fortifications
where there is no opposition made. *Memorandum*
General on Sept. 4. p. 32.

Let the General have done his duty, he ought,
to charge the French. *ibid.* p. 32.

Some of our Readers may perhaps recollect
upon this occasion, the history of one of the first
of the ancient states. — They at length, when their
riches & civil power were at their greatest
length & their enemies could lay all open
to them, neglected their arms & war, to go upon
a distant land war, ~~in support of a little~~
~~remote state~~. We shall soon, I hope, see the
mistake of justice in such an ~~impro-~~ ^{impro-}
bable attempt, & shall not give posterity
occasion to gaze upon us the same
page as the wise Roman did upon
the Grecian — his presence of arms
civilis, victis, communitis, depopulatis,
in hoc pothi. *Alene* *no* *voluntas*
impire, *gloria* *imperium* *factum* *est*
Armatum *in* *Vat.* *ibid* 140

I hope Sir you will not fail
to examine all the dockets
& to appear in my behalf.

Yrs. Will

Wm. L. G. L. L.

As the time you propose spending in Rome is so short, it will be necessary to divide the things most worth your seeing into so many days and take them as they lie nearest one another.

You may see in a day, the Capitol, where there is a collection of Statues, a Gallery of Pictures and several remains of ancient buildings, particularly the Temples of Jupiter Tonans, Concord and Arch of Septimius Severus, the situation of and remains in the Roman Forum and Via Sacra, particularly the Temples of Jupiter Stator, Antoninus & Faustina, Romulus & Remus, the Temple of Peace and Arch of Titus, the Amphitheatre / or Colosseum as it is now called / the Arch of Constantine, and what little remains of the Imperial Palace on Mount Palatine.

The second day, you may see, the Pantheon, the Portico of Octavia, the Theatre of Marcellus, the antiquities of the Foro Boario, principally the Temples of Fortune Virilis, Vesta & Castity, the Arch of Janus, the Baths of Caracalla & those of Diocletian, for they serve to illustrate one another.

The third day, you may employ in seeing the Clementine Museum, Raphael's rooms and Library at the Vatican, in seeing the working of mosaic and going to the top of St. Peter's Church.

The fourth, you may see the Colonna Palace & Garden, the proper Palace on Monte Cavallo, the Church of St. Maria Maggiore and St. John Lateran.

the fifth day, you may see the Villa Borghese, the Villa Albani and the Barberini Palace. —

the sixth, you may see the Borghese palace, the Panfili palace, the Spada palace and the Farnese palace

the seventh, you may see the little Farnese, the Corsini palace, Raphael's Transfiguration at S.^t Pietro de montorio, the view of Rome from the great Fountain there and the Villa Panfili. —

the eighth day, see the broken Obelisk of the Sun, ^{26 yards high 3 square at} the base of one at the top, one entire piece of granite.

• Temple of Antoninus at the Custom house, the Antonine & Trajan columns, the Pyramid of Caius Cestius and the Church of S.^t Paul's. —

(26)

Sir you will oblige ^{me} much if you deliver
to the Revue of Mr Wren my instruments
and I thank you at what time you will
be paid what you were good enough to lend
me ——— I am dear you much
obliged, Sir

Wm. H. Hines
Attorney at Law

Soport

J. W. H. Hines

P. 6. No Defects arrived accord^g to promise to enable the execution of his Com^{rs}?
Bad news from Canada arrived & accounts of formidable armaments going fr^m
Eng^l rendered it impossible to execute any thing in Mercantile way - Sum^med
little more than sufficient for expenses for any considerable time.

7th The grateful heart of his belly returned protected, by w^{ch} he was in a degree with money
unknown & unconnected wth personal credit And the political Act^s
left him as much with credit on pub^l account as his own. No friend at Court
& those he was recommended to had little more interest there than himself. Add to
all these in page

8. The influence & wealth of G. B. employed against him.

9. In France no immediate pub^l assistance could be expected for America

10. The situation of affairs in France such as prevented their taking a public
decided part, and they were closely watched by B. Emisaries.

12. Court of Versailles advised acting with great circumspection. The Court could afford
no assistance consistent wth the Treaties, which his Maj^{ty} could on no occasion violate.
Commerce free to all his subjects & he might obtain any articles not forbidden.
assured of his countenance & protection but could do nothing as to the articles he
was entrusted to solicit for - The ^{acknowledgement of} independence of the U. S. The Court said was
in the womb of time.

13. No remittances, therefore impossible to fulfil his Merc^l commission. Many Capital
menth offered supply on bills being indorsed by a Banker. But the latter c^d not be
obtained. July 1776 became acquainted wth Beaum^{ts} & found him the only person
willing to venture a considerable credit to these States at that time.

15. Rec^d a letter from Dr. A. L. desiring him to inform Cong. that J. R. & T. L. were dan-
gerous persons & to put Cong. on their guard against them. A. L. gave no reasons for his
charge - He replied "that he had been long personally acquainted wth those gentlemen
that he had the fullest confidence in their integrity & zeal for A. therefore could not
think of transmitting such information wth fullest proof. That he knew these Gent.
actually held important posts under Cong. therefore if the charge could be supported no
time sh^d be lost in transmi^{ng} the proper evidence - But he trembled at the thought of
giving Cong. suspicions of their most confid^l servants, wth certain proofs to support
and authorize such suspicions, the consequence must have been pernicious to the
pub^l & fatal to the individuals - This the purport of my letter

16 & 17 settled the plan with Baum, for sending supplies. He made an invoice for 30,000 men's clothing & other necessities in proportion, also 200 pieces of 6. cannon & 400 20 mortars. Also 30,000 fuses, 2000 lb. powder, ball lead, flints, 4000 Tents & other articles. Baum said he'd purchase the Cannon from King's Armaments & perhaps get credit for 6 months - Also hoped to purchase part of fuses from Arsenal - Mr. Baum, became his security to Monthien for the freight of ships to transport these Stores. Baum, could not get the fuses from Arsenal as he expected. He saw him purchase & pay for 15,000 of Monthien's some from there. In the contract with Monthien where Baum & Co. is alone the contracting party for freight.

18. To procure friends at Court to facilitate leave to export Stores cause of his contracts with Officers.

19. ²⁰ ^{has} given Baum, a list of Indian goods
Applied himself solely to execute the greater & more import. "Com^{rs}" Wanted a Secretary introduced by Rogers to Car^r who sh^d him a dispatch from A. L. where he saw the same ~~former~~ intelligence respecting Mr. R. & L. He expressed his astonishment & was told by Car^r that A. L. was excessively jealous & suspicious & as is usual wth such, inclined to credit reports on light grounds. Satisfied with Mr. Car^r, invited him to his lodgings

21. ²² Rec^d a letter from A. L. of his coming in to Paris, but saw others received same intelligence neither his arrival or his stay was a secret. Was now in midst of his affairs with Baum, & met A. L. first at Baum's house - After met them frequently together - A. L. every day at D'Armes lodging & spent his vacant time with A. L. Told A. L. that Baum was to supply him & L gave a high character of Baum. Asked L^r reasons & grounds he went upon ab^t R. & L. he said R. formerly corresponded wth D^r & M^r D^r but was intimate wth his L^r D^r - But for Mr. Langdon there was no doubt, as he was last winter in London & frequently wth the ministry. Displed he had spent the winter wth the latter in Phil^a & as to former he did not think such vague & inconclusive circumstances were sufficient to otherwise sending gen. charges to Congress, for that charges of such a complexion & coming from such a person as himself must for ever damn the reputation of those accused thereby, and alarm & embarrass the public - L said he knew a person of the name of Langdon had been in London, & therefore he wrote opposing him to the Mr. J. L. of Portland, that he believed he was too suspicious at times & was glad I had not sent forw^d his letter - Mr. Car^r told him that he had for those & other reasons (having previously communicated to me the contents of the dictionary letter, delayed sending it on, with w^{ch} M. L. was apparently well satisfied. Mentions these things to show on w^h ground a charge has since been brot agt Car^r for hav^g opened & interrupted dispatches as well as to give some idea of difficulty of acting wth a Colleague who carried his suspicions so far as often to declare wth reserve, that there were many in Congress & even in their select & secret Committee who ought not to be trusted - These his suspicious & often reported to persons in high rank, were, I am informed prejudicial to our affairs, because I have been several times seriously questioned on the subject by the Minister.

23. ⁴²⁵ Mr. Lee during his stay at Paris, tho' often spoke with him of the affairs of the Court of St. James, never intimated that he supposed that Gen. to have rec^d. money from the Court of St. to enable him to send out supplies, nor was it ever hinted to me until many months after, when to my surprise I learned that such intelligence had been sent to Cong. by W. L. - A. reported as a fact, after his arrival in Paris as Com^r that Baum had told him in London that he had received 200 M pounds st^d. of Administration for the use of Congress - This Baum. constant^{ly} "positioⁿ" denied had said. He D. did not consider Baum's supplies at the time as a gratuity from the Court of St. Applied to Ministry for leave to purchase Cannon from Arsenal, & was refused, or to let any other person purchase for him.

25. & 26. Wrote by Mr. Carey.

27. Great difficulties in the way of getting stores to Seaports, overcome by the Address & ingenuity of Messrs Baum. & in the favorable point of light in which he stood with P. Minister that in Nov^r nearly all the stores were collected at Marseilles, Roch. Havre & Dunkerq^e & ships ready at those Ports to transport them.

29. Baum. went last Nov^r to Havre to dispatch the Vessels, one only dispatched when orders came to stop it. He returned to Paris much blamed at Court, which his & the enemies of Am. took advantage of.

30. Trevelyan desired him to take lodgings for him in some Hotel with D. L. went to another part of the City

31. ⁴³² At first meeting of Commissioners with Minister they were told his Majesty would on no occasion violate the Treaties subsisting between the Courts of L. & L. ~~but that the Ministers~~ ~~expressly stated that~~ ~~that~~ ~~Dec^r in 1800 with his colleagues for the Minister~~ ~~expressly stated that~~ ~~their mutual agreement and concluded with his Majesty's Ministers~~ ~~and that the Ministers~~ ~~stated that~~ His Colleagues left it with him, to conduct Baum. business as he it was an affair undertaken solely by him, they w^d not meddle with it.

32. Dr. Bancroft came to Paris immediately to him on account of the correspondence between them.

33. It was thought advisable for Mr. L. to set out for Madrid as there appeared to be a prospect of doing something there, and he could not for many reasons be of any immediate use to these States at Paris. Accordingly he set out to make that journey by way of Bordeaux & Nantes where it was thought he might be of service in examining personally in what manner our commercial affairs were transacted.

But as our remote antiquities are involved in the same darkness with those of other Nations, a calamity peculiar to ourselves has thrown almost an equal obscurity over our more recent transactions.

This was occasioned by the malicious policy of Edw. the first of England.

Towards the end of the 13th Cent^y this monarch called in question the independance of Scotland - In order to establish this claim he seized the public archives, he ransacked churches & monasteries, & getting possession by force or fraud, of many historical monuments, w^{ch} tended to prove the antiquity or freedom of the kingdom, he carried some of them into England & burnt the rest to be burnt. Robins^{on} V. 1. p. 11

4th June 1295.

The Scots pretend that he destroyed all the annals preserved in their convents; but it is not probable that a nation so rude & unpolished w^{ld} be possessed of any history, w^{ch} deserves much to be regretted. The great seal of Baliol was broke & that Prince himself was carried prisoner to London & committed to the Tower. R. 2. Oct. p. 293.

Tota Scotia recepta conventus ordinum ad Tanum
Andro ab Edwardo est habitus: ubi omnes in ejus
fidem, metu coacti, proter unum Vellum,
jurarunt. Is inquitur ne Angli sibi in
festipimo, a Nobilitate non salis, equa prode
retur, cum paucis ad antiquas latebras
secepit. Edwardus prefectis & magis-
tribus per totam Scotiam ordinatis,
se in Angliam recepit. Dux in dis-
cipulis, singularem sui odii in omne
nomen Scotieum significationem ce-
liquit. Non contentus enim in stultis
omnes, qui res novas moliri posse
videbantur, adjecit animum ad omnem
(si fieri posset) gentis memoriam abo-
lendam. Leges etiam veteres deleuit;
ritus ecclesiasticos ad anglicam con-
suetudinem reduxit; historias, facta,
monumentaq; vetusta, sive a Romanis
relicta, sive a Scotis creata, destruenda
curavit; libros omnes, de totiusq; Do-
ctoris in Anglicam transtulit. Lapidem
quarum memoriam, in quo fatum
regni contineri vulgo persuesum
erat, Londinum misit; neque quid-
quam omnino reliquit, quod spiritus
generosos, aut sui memoria ad pris-
tina fortuna recordationem excitare
aut ad veri animi magnitudinem
erigere et excolere posset. Ita non.

solum viribus, sed etiam animis (ut ubique)
fruitis, et in servilem humilitatem, de-
jectis, perpetuam sibi illine pacem
spondebat. Reliquis autem Odoricum
Volaterranum pro Rege, qui omnium
novarum rerum molimina, si qua
emergere, in ortu ipso extin-
gueret. Buchann. Hist. Scot. lib. 8. c. 26.

Whereas a wicked and unnatural rebellion is begun and now carrying
on, in that part of this Kingdom called Scotland by divers of his Majesty's Subjects;
encouraged by his enemies abroad, in order to set a popish pretender upon the throne,
to the utter destruction of the Protestant religion & the fair and liberties of this
free constitution &c. 19 G. 2. 1.

Whereas a horrid and unnatural rebellion and war has been openly and
treacherously levied and raised against his Majesty within this realm and is still
continued with design to depose and murder his most sacred Majesty, and to set
a popish pretender, bred up and instructed in romish superstition and arbitrary prin-
ciples on the throne of these realms &c. 19 G. 2. 9

The Magistrates ought to do justice between litigons & litigons, every nation who
Nation, the same maxims must prevail in the several distributions of ~~power~~ ^{the}
seldom necessary to determine ~~between~~ nation & nation, because the subject of
easy to determine, the interests of two nations are so distinct that the love of justice alone is sufficient to discover
them and self love is not so prevalent. It is otherwise with the differences that arise between individuals, as they
are connected by vanity, their interests are so mixed and simple they are of so many different sorts that a third person
is requisite to unravel what the avowice of the parties will endeavour to perjure. There are but two kinds of war
that are just: the one to repel the attack of an enemy, the other to succour an ally who is attacked. It would not be just
to make war, for the private quarrels of the prince, unless the cause was of so heinous a nature as to deserve the death
of the King, or destruction of the people who gave it. Nor can a prince make war because they have refused him some honor
which is ^{his} due, or have been wanting in respect to his Ambassador, or for such like reason, any more than a private per-
son can kill him who refuses to bow to him, the reason is, because the declaration of war being an act of justice in which
the punishment must always be proportioned to the crime, it must be considered whether those against whom war is declared deserve
death, for to make war is to deserve to punish ^{with} death. In the law of nations, war is the severest act of justice, because it is the destruction
of society. Reproaches are in the second place, the proportioning the punishment to the crime, is a law which ~~beasts~~ ^{beasts} and is the destruction
been able to surmount. A third act of justice, is to prevent a prince of the advantage which he may derive from us, also,
making the punishment equal the offence. The fourth, which should be the most practised, is to renounce the alliance of that people
whom we have reason to complain of. This punishment is the same with banishment, established in the courts, which cuts off the guilty from
society, thus a prince whose alliance we renounce is by that cut off from our society. It is no longer one of our members. No greater affront can
be offered to a prince than to renounce his alliance, nor a greater honor done him than to contract with him, it is the highest honor & advantage to a man
to have others watching over his safety.

the Vandals such as the Goths in Spain
of the others, the authority of the Prince was
divided it with him; so it could not be declared without their consent
of the soldiers; no imposts for the benefit of the King; the same
people. These were the fundamental Principles, & all the States in
the Roman Empire. —

There are occasions when the liberty of the people must be protected by arms against those who
refuse to milder methods. H. C. M. P.

when we must force it

Qui nescit dissimulare, nescit regnare. The K. of Britain's maxim.
Fidelitas, Pietas, Fides, privata bona sunt; qua juvat, Reges eunt; } bonum
Ut nemo doceat fraudis & sceleris vias, Regnum docebit.

Instum est. Bellum quibus oneraturum; & pia arma quibus nulla nisi
in armis relinquitur spes. - - - Liv: 2. b. 9. Cap. 1. -

A French writer well acquainted with the politics of Europe
shews, that most Princes, when they enter into a Treaty, think more
how they may evade the performance of what they agree to, ^{than} how they
shall accomplish their promises. He proves this by several instances, to
which may be added Mons. Gerard late Minister of France to America;
his manner of explaining the Articles of our Treaty, by which assistance
was to be given to us.

Villeroi Secretary to Henry 3^d & 4th of France, said, The intention of Princes & Ministers of State is not, nor ought to be, subject to what they sign, even with their own hands: but rather what they sign, must be subject to their intention.

Girard was governed by this abominable maxim, which makes all Treaties of no effect. Thus we are negotiating the treaty on the part of France, & no doubt that more than the performance of it might be wished than how it might be fulfilled.

Multa renascentur quae jam cecidere, cadentque
quae nunc sunt in honore vocabula, si volet usus,
quem penes arbitrium est, et jus et norma loquendi.
Horace

Carter v. Carter Case stated.

227.

R. H. Carter son of Robert Carter & father to the Defendant is
S. by the deposition of Landon Carter brother to the s. Robert,
to have conveyed by Deed, to his father the s. Robert, the Tract of
Land in question, for twelve hundred pounds Sterling - Robt.
the y^r father by his will in a general residuary clause, made
prior to the purchase, makes his 3 Sons John, Robert & Charles
father of the Plaintiff, general residuary legatees, after the
purchase republishes his will, mentioning nothing
therein of the pretended purchase from his Son the very
particulars in signing his will for such republication.
Robert the Son died before the father consequently when his
estate was lapsed of his brothers John & Charles by petition to the
Assembly had all the estate left by the y^r father vested in the y^r Son
of the same estate that his father w^d have had if he had sur-
vived the y^r father - The Court of Chancery has decreed that a
Deed did pass from Robert the Son to Robert the father, but
have not found that the Deed was lost, mislaid or in the
possession of the Defendant - on the contrary it seems admitted
that none of those things did exist - It has sent the parties under
these circumstances to a trial at Law of a writ of right is the
only remedy now in their power. Robert the y^r Son has

been in continued occupation of the Land for upwards of forty years. of peace in quiet possession for forty years or near it before any mention was made by the Will of the execution of the Deed. Upon the above Case, the following questions arise:

1st Can a writ of right be maintained with^{out} proof of actual possession in the Plaintiff or some of his ancestors?

2^d Will not the length of possession accompanied by long circumstances be a sufficient presumption to establish the right in the Defendant?

3^d Does not the Defendant's possession of the Land in the place of himself & his Son, as to the will of the Grandfather?

4th Supposing the Deed found by the Court of Chancery to have been made, but not being found to be destroyed, or in the possession of the Defendant: is it not incumbent on them to produce it or clearly to prove it lost, to dispense with the necessity of producing it?

5th Can the contents of a lost Deed be given in evidence if it cannot, how can the Plaintiff recover.

1st Point. Actual entry necessary. 6 C. 92. Actual livery is positive. 3 Ck. 42. a. Possession under the Statute in fact gives but a livery in law & not an actual livery w^{ch} must be by deed or entry. 5 Ck. 112. b. Dyer. 28. pl. 182. 3 Sam. Ab. 160. 1 Co. Jac. 60 b. So that no deed can give the right - Stat of Limitations says possession must be in fifty years in the party or his ancestors.

2nd Length of possession evidence of right 2 Instet. Vaugh. 60. Corp. 216. Douglass. 54. circumstances. Paym. Acquiescence of party acc. for by claim ^{ancestors} the truth of the evidence of the evidence when the deed is of whom he gave testimony.

3rd Point. must be deduced from the words of the act of assembly & the construction of all such acts. bid. Bac. Ab. tit Statute.

4th p. 2 Necessary for the person claiming to produce it. 10 Ck. 92. a. b. Law of Evidence p. 97. Wills prevented by inevitable accident. Gunk. Cent.

5th Contract for a deed ^{for} not to be given in evidence. 10 Mod. n. 8.

Act of assembly operates as a Repudiation of the will, the parties having agreed to the parcel having its effect.

A Bill concerning process in felony,

(Be it enacted by the General Assembly, that after any man not being in custody shall be indicted of felony, it shall be commanded to the Sheriff to attach his body by writ or by precept called a capias. And if the Sheriff return thereon, that the body is not found, another writ or precept of capias shall issue, in which it shall be comprised that the Sheriff shall cause to be seized his chattles, and safely keep them till the day of the writ or precept returned. And if the Sheriff return, that the body is not found and the indicted cometh not, the exigent shall be awarded, and the chattles shall be forfeited to the Commonwealt; but if he come and yield himself or be taken before the return of the second capias, then the goods and chattles shall be saved.

25: Hen: 8: C. 6. Whosoever shall be guilty of buggery shall suffer death without the benefit of clergy.

A Bill declaring that wrongful disseisin is no descent in Law.

32. Haur. 8: 33.

Be it enacted by the general Assembly, that
the dying seized of any disseisor of, or in any Lands, tenements, or
other Hereditaments, having no right or title therein, shall
^{be made} ~~not take~~ any such descent in Law as to toll or
take away the entry of any such person, or persons, or their heirs,
who at the time of the same descent had good, and Lawful
title of entry into the said Lands, tenements or heredita-
ments, except that such disseisor hath had the peaceable
possession of such Lands, tenements or hereditaments, whereof
he shall so die seized, by the space of five years, next after
the disseisin therein by him committed, without entry or continu-
claim by or of such person or persons, as have lawful title
thereunto.

Requisites

list of the sums granted by the
Assembly for Indian War & theater
with the dates of such grants

Remembrance of the Assembly
as the members consist of the colony by
the grant to L. Ballmon & King Charles
in 1683

Royal Instructions to L^d Botsford
may sell the Western Land
to the Indians of frontiers by
one Allegany & of frontiers of Justice in
the same.

Report of the Committee
on Western Land Claims.

$$\begin{array}{r} 60 \\ 11 \\ \hline 60 \\ 60 \\ \hline 660 \end{array}$$

$$5/37$$

$$\begin{array}{r} 20 \\ 14 \\ 10 \\ \hline 40 \end{array}$$

$$\begin{array}{r} 91428 \\ 5 \\ \hline 140 \end{array}$$

$$\begin{array}{r} 15420 \\ 5 \\ \hline 76140 \end{array}$$

Moore. One of the brothers a Surveyor. Wm Smith
always claimed the ^{Wm Smith sh? his lawyer to appear by Hooper} 80 Acres of land to be in Hooper
Tangit. the Oak in the Valley appeared to be an ancient
onached tree 40 years ago. Understood from the family
of Wm Smith that the peach orchard was the lower
end of Smiths patent of yet old Smith laid claim
to the land below it in Hooper. See Moore -

243

A bill concerning a writ of entry, dower, cur in vita, & alienation by tenant by the curtesy.

52. H. 3. c. 29.

1. qui descendit.

2. habet.

3. plural.

Is. And that by an original writ to be provided therefor by the council of our said lord the King.

3. Edw: 1. c. 29.

See also in the margin of the 29th.

Be it enacted by the general Assembly that if those alienations whereupon a writ of entry was wont to be granted, happen to be made in so many degrees that by reason thereof the same writ cannot be made in the form before times used, the plain self shall have a writ to recover his seisin, without making mention of the degrees, into whose hands soever the same shall happen to come by such alienations.

13. Edw: 1. c. 3.

1. Writ of entry.

2. Where to she could not disagree during his life, which shall be pleaded in form underwritten.

In f. N^o 27. J. h.

In a writ of dower, called unde nihil habet, the writ shall not abate by the exception of the tenant, because she hath received her dower of another man, before her writ purchased, unless he can show, that she hath received part of her dower of himself and in the same county, before the writ purchased.

In case when a man doth lose by default the land, which was the right of his wife, it was very hard that the wife after the death of the husband had none other recovery, but by a writ of right; it is further enacted, that a woman after the death of her husband shall recover by ejectment. If the tenant do erect against the demand of the wife, that he entered by judgment and it be found that his entry was by default, where to the tenant must of necessity make answer if it be demanded of him, then he shall be compelled to make further answer, and to show his right according to the form of the writ, that he purchased before against the husband and the wife. And if he can verify, that he hath right in the land demanded, the woman shall gain nothing by her writ. Which thing if he cannot show, the woman shall recover the land in demand, this being observed, that if the husband ~~was~~ about himself, and will not defend his wife's right, or against the wife's consent will render the land, if the wife do come before judgment, ready to answer the demandant, and to defend her right the wife shall be admitted. Likewise if Tenant in dower, tenant by the law of the land, or otherwise for term of life or for gift, where the reversion is reserved, do make default or will give up, the heirs and they, unto whom the reversion belongeth shall be admitted to their answer, if they come before judgment; and if upon such default or surrender judgment happen to be given, then the heirs or they unto whom the reversion belongeth after the death of such tenants shall have their recovery by ejectment; in which like process shall be observed as is aforesaid, in case where the husband loseth his wife's land by default.

1. Writ of entry.

2. Last sentence omitted.

6. Edw: 1. c. 3.

If a man alien a tenement that he holdeth as tenant by the curtesy, his son shall not be barred by the death of his father (from whom no heritage to him descended) to demand and recover by writ of ejectment of the seisin of his mother, altho the deed of his father doth mention, that he and his heirs be bound to warranty. And if any heritage descend to him of his father, side then he shall be barred for the value of the heritage that is to him descended. And if in any time after, any heritage descend to him by the same father, then shall the tenant recover against him of the seisin of his mother. And in like manner shall the issue of his son recover. Likewise in like manner the heir of the wife shall not be barred after the death of his father and mother, by the deed of his father only, if he demand by action the inheritance of his mother.